

APPENDIX

TO THE HISTORY OF THE ELEVENTH CONGRESS.

[THIRD SESSION.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

GREAT BRITAIN.

[Communicated to Congress, December 5, 1810; and January 12, and February 19, 1811.]

To the Senate and House of Representatives of the United States:

I transmit to Congress copies of a letter from the Minister Plenipotentiary of the United States at London, to the Secretary of State; and of another from the same to the British Secretary of State for Foreign Affairs.

JAMES MADISON.

FEBRUARY 12, 1811.

To the House of Representatives of the United States:

I transmit to the House of Representatives a report of the Secretary of State, complying with their resolution of the 18th instant.

JAMES MADISON.

FEBRUARY 19, 1811.

[The following documents were communicated to Congress at the commencement of the third session of the eleventh Congress, and by Messages of the 12th January and 19th February, 1811.]

Extract—Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,
January 20, 1810.

In my letter to you of the 11th of November, 1809, you were authorized to assure the British Government that the United States sincerely retained the desire, which they have constantly professed, to facilitate a friendly accommodation of all the existing differences between the two countries; and that nothing would be more agreeable to them, than to find the successor of Mr. Jackson invested with all the authorities necessary for the accomplishing of so desirable an event; and, moreover, that if the attainment of this object, through your agency, should be considered more expeditious or otherwise preferable, it would be a course entirely satisfactory to the United States.

I am now charged, by the President, to transmit to you the enclosed letter, authorizing you to re-

sume the negotiations with the British Government, under the full power that had been given severally and jointly to you and Mr. Monroe. And, in your discussions therein, you will be regulated by the instructions heretofore given to Mr. Monroe and yourself. It is, however, not intended that you should commence this negotiation until the requisite satisfaction shall have been made in the affair of the Chesapeake. And, in the adjustment of this case, you will be guided by the instructions which you have heretofore received from this Department in relation to it.

It is, moreover, desirable, that, preparatory to a treaty upon all the points of difference between the two countries, an arrangement should be made for the revocation of the Orders in Council. As it is uncertain what may be the ultimate measures of Congress, at the present session, it cannot be expected that the President can, at this time, state the precise condition to be annexed to a repeal of the Orders in Council. But, in general, you may assure the British Government of his cordial disposition to exercise any power with which he may be invested, to put an end to acts of Congress which would not be resorted to but for the Orders in Council, and, at the same time, of his determination to keep them in force against France, in case her decrees should not also be repealed.

[Enclosed in the foregoing letter.]

DEPARTMENT OF STATE,
January 20, 1810.

SIR: The President, anxious to adjust the existing differences between the United States and Great Britain, and deeming it expedient to make another effort for that purpose, has given it in charge to me to instruct you to renew negotiations in London, under the commission dated the 12th of May, 1806, authorizing Mr. Monroe and yourself, severally as well as jointly "to treat with the British Government, relative to wrongs committed between the parties on the high seas or other waters, and for establishing the principles of navigation and commerce between them."

I have the honor, &c.

R. SMITH.

Relations with Great Britain.

Mr. Pinkney to Mr. Smith.

LONDON, *February 19, 1810.*

SIR: I received on the 12th instant, by Mr. Powell, whom I had sent some time before to France, a letter from Gen. Armstrong, of which a copy is enclosed; and, keeping in view the instructions, contained in your letter to me of the 11th of November last, I have written to Lord Wellesley to inquire whether any, and, if any, what blockades of France, instituted by Great Britain during the present war, before the 1st of January, 1807, are understood here to be in force. A copy of my letter to Lord Wellesley is enclosed.

It is not improbable that this official inquiry will produce a declaration, in answer to it, that none of those blockades are in force; and I should presume that such a declaration will be received in France as substantially satisfying the condition announced to me by General Armstrong.

I am not aware that this subject could have been brought before the British Government in any other form than that which I have chosen. It would not, I think, have been proper to have applied for a revocation of the blockades in question, (at least before it is ascertained that they are in existence,) or to have professed, in my letter to Lord Wellesley, to found, upon General Armstrong's communication, my inquiry as to their actual state. I have, however, supposed it to be indispensable (and have acted accordingly) that I should explain to Lord Wellesley in conversation the probability afforded, by Gen. Armstrong's letter, that a declaration by this Government, to the effect above-mentioned, would be followed by the recall of the Berlin decree.

I cannot, perhaps, expect to receive from Lord Wellesley an answer to my letter in time to send a copy by the John Adams, now in the Downs or at Portsmouth; but I will send it by an early opportunity, and will take care that General Armstrong shall be made acquainted with it without delay. I have the honor to be, &c.

WM. PINKNEY.

MARCH 23, 1810.

P. S. Since the writing of this letter Lord Wellesley has sent me the answer, (of the 2d instant,) of which a copy is now enclosed. It was not satisfactory, and I pointed out its deficiencies to Lord Wellesley in conversation, and proposed to him that I should write him another letter requesting explanations. He assented to this course, and I have written him the letter of the 7th instant, of which also a copy is enclosed. His reply has been promised very frequently, but has not yet been received. I have reason to expect that it will be sufficient, but I cannot think of detaining the corvette any longer. The British packet will furnish me with an opportunity of forwarding it to you, and I will send Mr. Lee with it to Paris, by the way of Morlaix.

I have the honor to be, &c.

WM. PINKNEY.

Hon. R. SMITH, &c.

[Enclosed in the preceding despatch.]

From General Armstrong to Mr. Pinkney.

PARIS, *January 25, 1810.*

SIR: A letter from Mr. Secretary Smith, of the 1st of December last, made it my duty to inquire of his Excellency the Duke of Cadore what were the conditions on which His Majesty the Emperor would annul his decree, commonly called the Berlin decree; and whether, if Great Britain revoked her blockades of a date anterior to that decree, His Majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger:

ANSWER.—“The only condition required for the revocation, by His Majesty the Emperor, of the decree of Berlin will be, a previous revocation by the British Government of her blockades of France, or part of France, (such as that from the Elbe to Brest, &c.,) of a date anterior to that of the aforesaid decree.”

I have the honor to be, &c.

JOHN ARMSTRONG.

WM. PINKNEY, Esq., &c.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
February 15, 1810.

MY LORD: In pursuance of the intimation which I had the honor to give to your Lordship a few days ago, I beg to trouble your Lordship with an inquiry whether any, and, if any, what blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807, are understood by His Majesty's Government to be in force? I am not able at present to specify more than one of the blockades to which this inquiry applies, namely, that from the Elbe to Brest, declared in May, 1806, and afterward limited and modified; but I shall be much obliged to your Lordship for precise information as to the whole.

I have the honor to be, &c.

WM. PINKNEY.

The Marquis WELLESLEY, &c.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, *March 2, 1810.*

SIR: I have the honor to acknowledge the receipt of your note of the 15th ultimo, wherein you request to be informed whether any, and, if any, what blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807, are understood by His Majesty's Government to be in force? I have now the honor to acquaint you that the coast, rivers, and ports, from the river Elbe to Brest, both inclusive, were notified to be under the restrictions of blockade, with certain modifications, on the 16th of May, 1806; and that these restrictions were afterwards comprehended in the Order of Council of the 7th of January, 1807; which order is still in force.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq., &c.

Relations with Great Britain.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
March 7, 1810.

MY LORD: I have had the honor to receive your Lordship's answer of the 2d instant, to my letter of the 15th of last month, concerning the blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807.

I infer, from that answer, that the blockade, notified by Great Britain in May, 1806, from the Elbe to Brest, is not itself in force, and that the restrictions which it established rest altogether, so far as such restrictions exist at this time, upon an order or Orders in Council issued since the 1st day of January, 1807.

I infer, also, either that no other blockade of France was instituted by Great Britain during the period above-mentioned, or that, if any other was instituted during that period, it is not now in force.

May I beg your Lordship to do me the honor to inform me whether these inferences are correct, and, if incorrect, in what respects they are so? I have the honor to be, &c.

WM. PINKNEY.

The MARQUIS OF WELLESLEY, &c.

Mr. Pinkney to Mr. Smith.

LONDON, February 23, 1810.

SIR: I have the honor to transmit, enclosed, a copy of a notification of the blockade of the "coast and ports of Spain, from Gijon to the French territory," received from Lord Wellesley two days ago. I have not yet given any answer to this communication. I have, &c.

WM. PINKNEY.

Hon. ROBERT SMITH, &c.

[Referred to in Mr. Pinkney's letter of February 23.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, February 20, 1810.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to inform Mr. Pinkney, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, that the King has judged it expedient to signify his commands to the Lords Commissioners of the Admiralty to establish a strict blockade of the coasts and ports of Spain, from Gijon to the French territory, which will be maintained and enforced, according to the usages of war acknowledged and observed in similar cases.

Mr. Pinkney is, therefore, requested to apprise the American Consuls and merchants residing in England, that the whole of the Spanish coast above-mentioned is, and must be considered as, in a state of blockade; and that, from this time, all the measures, authorized by the law of nations and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

11th CON. 3d SESS.—37

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

WELLESLEY.

WM. PINKNEY, Esq., &c.

Mr. Pinkney to Mr. Smith.

LONDON, March 21, 1810.

SIR: On the 27th of November, Mr. Brunnell delivered to me your letters of the 11th, 14th, and 23d of the preceding month, and on the Saturday following I had a conference with the Marquis of Wellesley, in the course of which I explained to him fully the grounds upon which I was instructed to request Mr. Jackson's immediate recall, and upon which the official intercourse between that Minister and the American Government had been suspended.

Lord Wellesley's reception of what I said to him was frank and friendly, and I left him with a persuasion that we should have no cause to be dissatisfied with the final course of his Government on the subject of our conference.

We agreed in opinion that this interview could only be introductory to a more formal proceeding on my part; and it was accordingly settled between us that I should present an official letter, to the effect of my verbal communication.

Having prepared such a letter, I carried it myself to Downing street a few days afterwards, and accompanied the delivery of it to Lord Wellesley, with some explanatory observations, with which it is not, I presume, necessary to trouble you. You will find a copy of this letter enclosed, and will be able to collect from it the substance of the greater part of the statements and remarks which I thought it my duty to make in the conversation above-mentioned.

Although I was aware that the answer to my letter would not be very hastily given, I certainly was not prepared to expect the delay which has actually occurred. The President will do me the justice to believe, that I have used every exertion, consistent with discretion and the nature of the occasion, to shorten that delay, which, though not ascribable, as I persuade myself, to any motive unfriendly or disrespectful to the United States, may, I am sensible, have been productive of some disadvantage. A copy of the answer, received on the day of its date, is enclosed.

Between the delivery of my letter and the receipt of the reply, I had frequent conversations with Lord Wellesley, some of which were at his own request, and related altogether to the subject of my letter. The rest were on other subjects; but Mr. Jackson's affair was incidentally mentioned in all. A particular account of what was said on these several occasions would scarcely be useful, and could not fail to be tedious. It will, perhaps, be sufficient to observe, that, although these conversations were less satisfactory to me than the first, there was always an apparent anxiety on the part of Lord Wellesley to do what was conciliatory; and that, in the share which I took in them, I was governed by an opinion that, although it might become my duty

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to avoid, with more than ordinary care, all appearance of my being a party to the ultimate proceeding of the British Government upon my official representation, it could not be otherwise than proper, in any turn which the affair could take, that I should avail myself of every opportunity of bringing to Lord Wellesley's mind such considerations as were calculated to produce a beneficial influence upon the form and character of that proceeding. In what light the President will view the course, after so much deliberation, this Government has adopted, it would not become me even to conjecture. If, either in manner or effect, it should not fulfil his expectations, I shall have to regret that the success of my humble endeavors to make it what it ought to be, has not been proportioned to my zeal and diligence.

Of my letter to Lord Wellesley of the 2d of January, I have very little to say. I trust it will be found faithful to my instructions; and that, while it maintains the honor of my Government, it does not neglect what is due to conciliation.

I am not sure that I ought to have quoted in it your letter to me of the 11th of November, of which the subject is undoubtedly given in the quotation from your subsequent letter of the 23d of the same month. But I saw no objection to a repetition of the just and amicable sentiment expressed in these quotations; and, as I had been induced, at my first interview with Lord Wellesley, to read to his Lordship each of the passages, I felt that I was in some sort bound to the introduction of both into my written communication.

My letter avoids all discussion, and all invitation to discussion, on the business of the Chesapeake, on the Orders in Council, and on other topics which circumstances have connected with both. It does not, however, entirely pass them by; but contains such references to them as, I supposed, were likely to be useful. I feel assured that, in this respect, I have acted in conformity with the President's intentions. Indeed, if I had acted otherwise, I should have complicated and embarrassed a question which I was ordered to simplify, and forced into combination the peculiar difficulties of several subjects, to counteract the wishes of my own Government upon each. I should have done so, too, without inducement; for I had no authority to make any demand or proposal in the cases of the Chesapeake and Orders in Council, or to act upon any proposal which Lord Wellesley might be inclined to make to me; and it was perfectly clear that these subjects were not susceptible of any very material written illustrations which they had not already received. I did not, however, imagine that I was to make no use of the reflections upon these which you had furnished in your letter of the 23d of November. I was, on the contrary, convinced that it would be proper to suggest them occasionally in conversation, with a view to dispose Lord Wellesley, and, through him, the British Government, to seek such fair and liberal adjustments with us as would once more make us friends. Accordingly, in my first conference,

I spoke of the affair of the Chesapeake and the Orders in Council, and concluded my explanations, which did not lose sight of your letter of the 23d of November, by expressing a wish that Lord Wellesley would allow me an early opportunity of a free communication with him on these heads. From the disposition evinced by Lord Wellesley, in the notice which he took of these suggestions and of that wish, I was inclined to hope that it might be in my power to announce to you, by the return of the corvette, that a new envoy would be charged, as the successor of Mr. Jackson, with instructions adapted to the purpose of honorable accommodation. My letter to his Lordship was written under the influence of this hope, and concludes, as you will perceive, with as strong an appeal to the disposition on which it rested, as could with propriety be made.

I recurrd, in subsequent conversations, as often as occasion presented itself, to the attack on the Chesapeake and to the Orders in Council. It soon appeared, however, that a new Envoy would not, in the first instance, be sent out to replace Mr. Jackson, and, consequently, that an arrangement of these subjects was not, in that mode, to be expected. A special mission would still less be resorted to; and it was not likely that approaches to negotiation would be made through a *Chargé d'Affaires*. It was still barely possible that, though I had no powers to negotiate and conclude, the British Government might not be disinclined to make advances through me, or that Lord Wellesley would suffer me so far to understand the views of his Government, as that I might enable you to judge upon what conditions and in what mode arrangement was practicable. This was possible, though not very probable; but it finally became certain that no definite proposal would, for the present at least, be made to us through any channel, and that Lord Wellesley would not commit himself upon the details to which I wished him to speak, but upon which, of course, I did not press him.

It only remains to refer you, for the actual sentiments of this Government, with regard to future negotiation, to the concluding paragraph of Lord Wellesley's letter to me; which is substantially the same with his recent verbal explanations; and to add that, in a short conversation since the receipt of his letter, he told me that, if I thought myself empowered to enter upon and adjust the case of the Chesapeake, he would proceed without delay to consider it with me.

I have not supposed that Lord Wellesley's letter requires any other than the common answer; and I have, accordingly, given the reply of which a copy is now transmitted. I have, &c.

WILLIAM PINKNEY.

HON. ROBERT SMITH, &c.

[Referred to in Mr. Pinkney's despatch March 21, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, Jan. 2, 1810.

MY LORD: In the course of the official correspondence which has lately taken place between

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the Secretary of State of the United States, and Mr. Jackson, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington, it has unfortunately happened that Mr. Jackson has made it necessary that I should receive the commands of the President to request his recall, and that, in the mean time, the intercourse between that Minister and the American Government should be suspended.

I am quite sure, my Lord, that I shall best consult your Lordship's wishes; and the respect which I owe to His Majesty's Government, by executing my duty on this occasion with perfect simplicity and frankness. My instructions, too, point to that course as required by the honor of the two Governments, and as suited to the confidence which the President entertains in the disposition of His Majesty's Government to view in its true light the subject to which they relate. With such inducements to exclude from this communication everything which is not intimately connected with its purpose, and, on the other hand, to set forth, with candor and explicitness, the facts and considerations which really belong to the case, I should be unpardonable if I fatigued your Lordship with unnecessary details, or affected any reserve.

It is known to your Lordship that Mr. Jackson arrived in America, as the successor of Mr. Erskine, while the disappointment, produced by the disavowal of the arrangement of the 19th of April, was yet recent, and while some other causes of dissatisfaction, which had been made to associate themselves with that disappointment, were in operation; but your Lordship also knows that his reception by the American Government was marked by all that kindness and respect which were due to the representative of a Sovereign, with whom the United States were sincerely desirous of maintaining the most friendly relations.

Whatever were the hopes which Mr. Jackson's mission had inspired of satisfactory explanations and adjustments upon the prominent points of difference between the two countries, they certainly were not much encouraged by the conferences, in which, as far as he thought proper, he opened to Mr. Smith, soon after his arrival, the nature and extent of his powers and the views of his Government. After an experiment, deemed by the Government of the United States to be sufficient, it appeared that these conferences, necessarily liable to misconception and want of precision, were not likely to lead to any practical conclusion.

Accordingly, on 9th of October, Mr. Smith addressed a letter to Mr. Jackson, in which, after stating the course of proceeding which the American Government had supposed itself entitled to expect from him with regard to the rejected arrangement and the matters embraced by it, after recapitulating what Mr. Smith believed to have passed in their recent interviews relative to those subjects, he intimated that it was thought expedient that their further discussions, on that particular occasion, should be in writing.

It is evident, my Lord, from Mr. Jackson's reply of the 11th of the same month, that he received this intimation (which, carefully restricted as it was, he seems to have been willing to understand in a general sense) with considerable sensibility. He speaks of it in that reply as being without example in the annals of diplomacy; as a step against which it was fit to enter his protest; as a violation, in his person, of the most essential rights of a public Minister; as a new difficulty thrown in the way of a restoration of a thorough good understanding between the two countries.

I need not remark to your Lordship that nothing of all this could, with propriety, be said of a proceeding, in itself entirely regular and usual, required by the state of the discussions to which only it was to be applied, and proposed in a manner perfectly decorous and unexceptionable. The Government of the United States had expected from Mr. Jackson an explanation of the grounds of the refusal, on the part of his Government, to abide by Mr. Erskine's arrangement, accompanied by a substitution of other propositions. It had been collected from Mr. Jackson's conversations, that he had no power whatsoever to give any such explanation; or, in the business of the Orders in Council, to offer any substitute for the rejected agreement; or, in the affair of the Chesapeake, to offer any substitute that could be accepted; and it had been inferred, from the same conversations, that, even if the American Government should propose a substitute for that part of the disavowed adjustment which regarded the Orders in Council, the substitute could not be agreed to, (if, indeed, Mr. Jackson had power to do more than discuss it,) unless it should distinctly recognise conditions which had already been declared to be wholly inadmissible.

To what valuable end, my Lord, loose conversations, having in view either no definite result, or none that was attainable, could, under such circumstances and upon such topics, be continued, it would not be easy to discover; and I think I may venture to assume that the subsequent written correspondence has completely shown that they could not have been otherwise than fruitless, and that they were not too soon abandoned for that formal course to which, from the beginning, they could only be considered as preparatory.

After remonstrating against the wish of the American Government to give to the further discussions a written form, Mr. Jackson disposes himself to conform to it; and, speaking in the same letter of the disavowal of the arrangement of April, he declares that he was not provided with instructions to explain the motives of it; and he seems to intimate that explanation, through him, was unnecessary, not only because it had already been made through other channels, but because the Government of the United States had entered into the arrangement with a knowledge "that it could only lead to the consequences that actually followed." In the conclusion of the fourth paragraph of the letter, he informs Mr. Smith that the despatch of Mr. Canning to Mr. Erskine, "which Mr. Smith had made the basis

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of an official correspondence with the latter Minister, and which had been read to the American Minister in London," was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with the United States on the matter to which it related.

Mr. Smith's answer to this letter bears date the 19th of October; and I beg your Lordship's permission to introduce from it the following quotation: "The stress you have laid upon what you have been pleased to state as the substitution of the terms finally agreed on [in the arrangement of April on the Orders in Council] for the terms first proposed, [by Mr. Erskine,] has excited no small degree of surprise. Certain it is, that your predecessor did present for my consideration the same conditions which now appear in the present document; that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit; and that, on finding his first proposal unsuccessful, the more reasonable terms, comprised in the arrangement respecting the Orders in Council, were adopted. And what is there to countenance the conclusion you have drawn in favor of the right of His Britannic Majesty to disavow the proceeding? Is anything more common in public negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and is confirmed by universal experience.

"What are the real and entire instructions given to your predecessor, is a question essentially between him and his Government. That he had, or, at least, that he believed he had, sufficient authority to conclude the arrangement, his formal assurances during our discussions were such as to leave no room for doubt. His subsequent letter, of the 15th of June, renewing his assurances to me, 'that the terms of the agreement so happily concluded by the recent negotiation will be strictly fulfilled on the part of His Majesty,' is an evident indication of what his persuasion then was as to his instructions. And, with a view to show what his impressions have been, even since the disavowal, I must take the liberty of referring you to the annexed extracts [see C] from his official letters of the 31st of July and of the 14th of August."

"The declaration, 'that the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates,' is now for the first time made to this Government. And I need hardly add, that, if that despatch had been communicated at the time of the arrangement, or if it had been made known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on

which he was authorized to make an arrangement, the arrangement would not have been made."

I suppose, my Lord, that it was impossible to disclaim for the American Government, in more precise and intelligible language than is found in this quotation, all knowledge of Mr. Erskine's instructions, incompatible with a sincere, honorable, and justifiable belief that he was, as he professed to be, fully authorized to make the agreement in which he undertook to pledge the faith of His Majesty's Government. Yet, in Mr. Jackson's next letter (of the 23d of October) to Mr. Smith, he says, "I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was in violation of that gentleman's instructions, and altogether without authority to subscribe, to the terms of it. These instructions, I now understand from your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance made known to you. No stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement."

Your Lordship will allow me to take for granted, that this passage cannot be misunderstood. Its direct and evident tendency is to fasten upon the Government of the United States an imputation most injurious to its honor and veracity. The charge, that it had all along been substantially apprized, however it might affect to be ignorant, of the instructions which Mr. Erskine's arrangement were said to have violated, had before been insinuated; but it is here openly made, in reply; too, to a paper in which the contrary is formally declared by the official organ of the American Government.

This harsh accusation, enhanced by the tone of the letter in which it appeared, was in all respects as extraordinary as it was offensive. It took the shape of an inference from facts and asseverations, which necessarily led to the opposite conclusion. It was preferred as an answer to a claim of explanation, which Mr. Jackson professed not to be authorized by his Government to offer at all, but which he chose so to offer from himself as to convert explanation into insult. It was advanced, not only without proof and against proof, but against all color of probability. It could scarcely have been advanced, under any conviction, that it was necessary to the case which Mr. Jackson was to maintain; for His Majesty's Government had disavowed Mr. Erskine's arrangement, according to Mr. Jackson's own representations, without any reference to the knowledge which this accusation imputed to the Government of the United States; and it need not be stated, that no allusion whatsoever was made to it by Mr. Secretary Canning, in those informal communications to me which Mr. Jackson has mentioned. It was not, moreover, to have been expected that, in the apparent state of Mr. Jackson's powers, and in the actual posture of his ne-

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gotiation, he would seek to irritate where he could not arrange, and sharpen disappointment by studied and unprovoked indignity.

The course which the Government of the United States adopted on this painful occasion was such as at once demonstrated a sincere respect for the public character with which Mr. Jackson was invested, and a due sense of its own dignity. Mr. Jackson's conduct had left a feeble hope that further intercourse with him, unproductive of good as it must be, might still be reconcilable with the honor of the American Government. A fair opportunity was accordingly presented to him of making it so, by Mr. Smith's letter of the 1st of November, of which I beg leave to insert the concluding paragraph:

"I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge, on the part of this Government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that, with such knowledge, no such arrangement would have been entered into, the view which you have again presented of the subject makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself."

Whatever was the sense in which Mr. Jackson had used the expressions to which the American Government took exception, he was now aware of the sense in which they were understood; and, consequently, was called upon, if he had been misapprehended, to say so. His expressions conveyed an injurious meaning, supported, moreover, by the context, and the notice taken of them had not exceeded the bounds of just admonition. To have explained away even an imaginary affront would have been no degradation; but when an occasion was thus offered, to qualify real and severe imputations upon the Government to which he was accredited, it could scarcely be otherwise than a duty to take immediate advantage of it.

Such, however, was not Mr. Jackson's opinion. He preferred answering the appeal, which had been made to him, by reiterating with aggravations the offensive insinuation. He says, in the last paragraph of his letter of the 4th of November, to Mr. Smith, "You will find that, in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me; and least of all should I think of uttering an insinuation where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered. In so doing, I must continue, whenever the good faith of His

Majesty's Government is called in question, to vindicate his honor and dignity, in the manner that appears to me best calculated for that purpose."

To this, my Lord, there could be but one reply. Official intercourse with Mr. Jackson could no longer be productive of any effects that were not rather to be avoided than desired; and it was plainly impossible that it should continue. He was, therefore, informed by Mr. Smith, in a letter of the 8th of November, which recapitulated the inducements to this unavoidable step, that no further communications would be received from him; that the necessity of this determination would, without delay, be made known to his Government; and that, in the mean time, a ready attention would be given to any communications, affecting the interests of the two nations, through any other channel that might be substituted.

The President has been pleased to direct that I should make known this necessity to His Majesty's Government, and, at the same time, request that Mr. Jackson be recalled. And I am particularly instructed to do this in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundations of justice, of friendship, and of mutual interest. I am further particularly instructed, my Lord, to make His Majesty's Government sensible, that, in requiring the recall of Mr. Jackson, the United States wish not to be understood as in any degree obstructing communications, which may lead to a friendly accommodation; but that, on the contrary, they sincerely retain the desire, which they have constantly professed, to facilitate so happy an event, and that nothing will be more agreeable to them than to find the Minister who has rendered himself so justly obnoxious, replaced by another, who, with a different character, may carry with him all the authorities and instructions requisite for the complete success of his mission; or, if the attainment of this object, through my agency, should be considered more expeditious or otherwise preferable, that it will be a course entirely satisfactory to the United States.

These instructions, which I lay before your Lordship without disguise, require no comment.

Before I conclude this letter, it may be proper very shortly to advert to two communications, received by Mr. Secretary Smith from Mr. Oakley, after the correspondence with Mr. Jackson had ceased.

The first of these communications (of which I am not able to ascertain the date) requested a document, having the effect of a special passport or safeguard, for Mr. Jackson and his family, during their further stay in the United States. This application was regarded as somewhat singular; but the document, of which the necessity was not perceived, was nevertheless furnished. The reasons assigned for the application excited some surprise. I have troubled your Lordship, in conversation, with a few remarks from my instructions, upon one of those reasons, which I will take

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the liberty to repeat. The paper in question states that Mr. Jackson "had already been once most grossly insulted by the inhabitants of Hampton, in the unprovoked language of abuse held by them to several officers bearing the King's uniform, when those officers were themselves assaulted and put in imminent danger."

I am given to understand, my Lord, that the insult here alluded to was for the first time brought under the notice of the American Government by this paper; that it had, indeed been among the rumors of the day, that some unbecoming scene had taken place at Hampton or Norfolk, between some officers belonging to the *Africaine* frigate and some of the inhabitants, and that it took its rise in the indiscretion of the former; that, no attention to the circumstance having been called for, and no inquiry having been made, the truth of the case is unknown; but that it never was supposed that Mr. Jackson himself, who was on board the frigate, had been personally insulted, nor is it yet understood in what way he supposes that he was so. I am authorized to add, that any complaint or representation on the subject would instantly have received every proper attention.

The other communication—of which the substance was soon afterwards published to the American people in the form of a circular letter from Mr. Jackson to the British Consuls in the United States—seems to have been intended as a justification of his conduct, in that part of his correspondence which had given umbrage to the American Government. This paper (bearing date the 13th November) is not very explicit; but it would appear to be calculated to give rather a new form to the statements, which Mr. Jackson had suffered the Government of the United States to view in another light, until it had no choice but to act upon the obvious and natural interpretation of them sanctioned by himself.

It was never objected to Mr. Jackson, (as this paper seems to suggest,) that he had stated that the three propositions in Mr. Erskine's original instructions were submitted to Mr. Smith by that gentleman; or that he had stated it as made known to him by Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived, for the conclusion of an arrangement on the matter to which it related.

The objection was, that he had ascribed to the American Government a knowledge that the propositions submitted to its consideration by Mr. Erskine were indispensable conditions, and that he did so even after that knowledge had been distinctly disclaimed, and he had been made to perceive that a repetition of the allegation could not be suffered.

I willingly leave your Lordship to judge whether Mr. Jackson's correspondence will bear any other construction than it in fact received; and whether, supposing it to have been erroneously construed, his letter of the 4th November should not have corrected the mistake, instead of confirming and establishing it.

As an *explanation*, this paper was even worse

than nothing. It had not the appearance of an attempt to rectify misapprehension. It sought to put the American Government in the wrong, by assuming that what had given so much umbrage ought not to have given any. It imported reproach rather than explanation. It kept out of sight the real offence, and, introducing a new and insufficient one in its place, seemed to disclose no other wish than to withdraw from the Government of the United States the ground upon which it had proceeded. Its apparent purpose, in a word, was to fix a charge of injustice upon the past—not to produce a beneficial effect upon the future. In this view, and in this only, it was perfectly consistent that it should announce Mr. Jackson's determination to retire to New York.

The time when this paper was presented will not have escaped your Lordship's observation. It followed the demand, already mentioned, of a safeguard for "Mr. Jackson, his family, and the gentlemen attached to his mission"—a demand which cannot be regarded—especially if we look to the inducements to which it was referred, as either conciliatory or respectful. It followed, too, the letter of the 4th November, which, had explanation been intended, ought undoubtedly to have contained it; but which, in lieu of it, contained fresh matter of provocation. It was itself followed by the publication of its own substance in another garb. On the very day of its date, when Mr. Jackson, if he meant it as an explanation, could not be justified in concluding that it would not be satisfactory, it was moulded by him into the circular address to which I have before alluded; and immediate steps appear to have been taken to give to it, in that shape, the utmost publicity. I have no wish, my Lord, to make any strong remarks upon that proceeding. It will be admitted that it was a great irregularity; and that, if Mr. Jackson had been particularly anxious to close every avenue to reconciliation between the American Government and himself, he could not have fallen upon a better expedient.

I have now only to add, my Lord, the expression of my own most ardent wish, that out of the incident which has produced this letter, an occasion may be made to arise, which, improved as it ought to be, and I trust will be, by our respective Governments, may conduct them to a cordial and lasting friendship. Thus to endeavor to bring good out of evil, would be worthy of the rulers of two nations that are only in their natural position when they are engaged in offices of mutual kindness, and largely contributing to the prosperity and happiness of each other.

I have the honor to be, with the highest consideration, my Lord, your Lordship's most obedient, humble servant,

WILLIAM PINKNEY.

The MARQUIS OF WELLESLEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, March 14, 1810.

SIR: The letter which I had the honor to receive from you, under date of the 2d of January,

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together with the additional paragraph received on the 24th of January, has been laid before the King.

The several conferences which I have held with you respecting the transactions to which your letter refers, have, I trust, satisfied you that it is the sincere desire of His Majesty's Government, on the present occasion, to avoid any discussion which might obstruct the renewal of amicable intercourse between the two countries.

The correspondence between Mr. Jackson and Mr. Smith has been submitted to His Majesty's consideration.

His Majesty has commanded me to express his concern that the official communication between His Majesty's Minister in America and the Government of the United States should have been interrupted before it was possible for his Majesty, by any interposition of his authority, to manifest his invariable disposition to maintain the relations of amity with the United States.

I am commanded by His Majesty to inform you, that I have received from Mr. Jackson the most positive assurances that it was not his purpose to give offence to the Government of the United States by any expression contained in his letters, or by any part of his conduct.

The expressions and conduct of His Majesty's Minister in America having, however, appeared to the Government of the United States to be exceptionable, the usual course in such cases would have been to convey, in the first instance, to His Majesty, a formal complaint against his Minister, and to desire such redress as might be deemed suitable to the nature of the alleged offence.

This course of proceeding would have enabled His Majesty to have made such arrangements, or to have offered such seasonable explanations, as might have precluded the inconvenience which must always arise from the suspension of official communication between friendly Powers.

His Majesty, however, is always disposed to pay the utmost attention to the wishes and sentiments of States in amity with him; and he has, therefore, been pleased to direct the return of Mr. Jackson to England.

But His Majesty has not marked with any expression of his displeasure the conduct of Mr. Jackson, whose integrity, zeal, and ability, have long been distinguished in His Majesty's service, and who does not appear, on the present occasion, to have committed any intentional offence against the Government of the United States.

I am commanded to inform you that Mr. Jackson is ordered to deliver over the charge of His Majesty's affairs in America to a person properly qualified to carry on the ordinary intercourse between the two Governments, which His Majesty is sincerely desirous of cultivating on the most friendly terms.

As an additional testimony of this disposition, I am authorized to assure you that His Majesty is ready to receive, with sentiments of undiminished amity and good will, any communication which the Government of the United States may deem beneficial to the mutual interests of both

countries, through any channel of negotiation which may appear advantageous to that Government.

I request you will accept the assurances of the high consideration with which I have the honor to be, sir, your most obedient and humble servant,
WELLESLEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

March 17, 1810.

MY LORD: I have had the honor to receive your Lordship's letter of the 14th instant, in reply to mine of the 2d January, and will lose no time in transmitting it to my Government.

I have the honor to be, &c.

WILLIAM PINKNEY.

LORD WELLESLEY, &c.

Extract—Mr. Pinkney to Mr. Smith.

LONDON, March 27, 1810.

I have the honor to enclose a copy of Lord Wellesley's reply to my letter of the 7th instant, respecting the British blockades of France before the Berlin decree.

I do not think it of such a nature as to justify an expectation that General Armstrong will be able to make any use of it at Paris, but I shall nevertheless convey to him the substance of it without delay.

[Referred to in Mr. Pinkney's letter of March 27.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, March 26, 1810.

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, requesting a further explanation of my letter of the 2d, concerning the blockades of France instituted by Great Britain during the present war, before the 1st day of January, 1807.

The blockade notified by Great Britain in May, 1806, has never been formally withdrawn. It cannot, therefore, be accurately stated that the restrictions which it established rest altogether on the Order of Council of the 7th January, 1807; they are comprehended under the more extensive restrictions of that order. No other blockade of the ports of France was instituted by Great Britain between the 16th May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th July, 1806, which is still in force.

I beg you to accept the assurances of high consideration with which I have the honor to be, sir, your most obedient, humble servant,

WELLESLEY.

Mr. Pinkney to General Armstrong.

LONDON, April 6, 1810.

DEAR SIR: I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain the recall of the Berlin decree. Certainly, the inference from that statement is, that the blockade of 1806 is virtue

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ally at an end, being merged and comprehended in an Order in Council issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, and of that of Venice, or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon, if indeed they can be obtained at all, I will not detain Mr. Lee, but will send you another messenger (Mr. Craig, of Philadelphia) in the course of three or four weeks, with the result of my endeavors. In the meantime, such use can be made of my communication of the 27th ultimo as you may deem advisable. I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, April 8, 1810.

SIR: In a short letter of the 2d instant, by Mr. John Wallace, in the British packet, I had the honor to acknowledge the receipt, on the 31st of last month, by Dr. Logan, of your letters of the 20th January and the 16th February, and to inform you that I had, in consequence, an appointment to meet Lord Wellesley on the 3d.

At the interview which took place in pursuance of that appointment, I explained to Lord Wellesley the nature of the powers now confided to me, and, as far as was necessary, the subjects to which they related. The result of the conversation which ensued was an understanding that we should begin with an attempt to settle the affair of the Chesapeake; and, that attempt being successful, that we should proceed to consider next the subject of the Orders in Council; and lastly, the commercial and other concerns embraced by the commission of 1806, to Mr. Monroe and myself.

In conformity with this understanding, it was agreed that I should immediately follow up the conference with a note, stating my authority to adjust with the British Government the case of the Chesapeake; and I have accordingly prepared and sent to Lord Wellesley the letter of which a copy is enclosed. I have not since heard from his Lordship, to whom, of course, it now belongs to make proposals.

It will not, I trust, be thought that my letter, which is simply an official notification, in civil terms, of my power to receive and act upon such overtures as this Government may choose to make, goes too far. I have the honor to be &c.

WILLIAM PINKNEY.

P. S.—April 9. I have just received from Lord Wellesley a note, of which a copy is enclosed, inviting me to a conference on Thursday next. (the 12th), doubtless on the affair of the Chesapeake.

I have the honor to be, &c. W. P.

[Referred to in Mr. Pinkney's letter of April 8, 1810.]

Mr. Pinkney to Lord Wellesley.

CUMBERLAND PLACE, (without date.)

MY LORD: I have the honor to state to your Lordship, in conformity with my verbal explanations in a recent conference, that I am authorized to adjust with His Majesty's Government

the case of the attack on the American frigate Chesapeake, in the month of June, 1807, by the British ship the Leopard.

It will give me sincere pleasure to communicate with your Lordship on this interesting subject, in such manner as shall be thought best calculated to lead to a fair and honorable arrangement of it, preparatory to the restoration of kindness and beneficial intercourse between the two countries. I have the honor to be, &c.

WILLIAM PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, April 9, 1810.

The Marquis Wellesley presents his compliments to Mr. Pinkney, and will be happy to have the honor of seeing him at the Foreign Office on Thursday next, at 2 p. m., if that hour should suit his convenience.

Mr. Pinkney to Mr. Smith.

LONDON, April 9, 1810.

SIR: I have, upon full reflection, thought it necessary to prepare a letter to Lord Wellesley, reciting the French Minister's official statement to General Armstrong of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British Government to a revocation (or to a precise declaration that they are no longer in force) of the blockade of May, 1806, and of that of Venice, especially the former. As the answer to this letter (upon which I wish to converse with Lord Wellesley before I deliver it) will not probably be very prompt, I have, in the mean time, sent Mr. Lee to Paris, with two letters to General Armstrong, of which copies are enclosed. I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to General Armstrong.

LONDON, April 6, 1810.

DEAR SIR: I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain the recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806 is virtually at an end, being merged and comprehended in an Order in Council, issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, and of that of Venice, or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon (if, indeed, they can be obtained at all) I will not detain Mr. Lee, but will send you another messenger (Mr. Craig, of Philadelphia) in the course of three or four weeks, with the result of my endeavors.

In the meantime such use can be made of my communication of the 27th ultimo as you may deem advisable. I have the honor to be, &c.

WILLIAM PINKNEY.

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Mr. Pinkney to Mr. Smith.

LONDON, May 2, 1810.

SIR: I had the honor to inform you, in my letter of the 9th of last month, that I had, upon full reflection, thought it necessary to prepare a letter to Lord Wellesley, reciting the French Minister's official statement to General Armstrong of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British Government to a revocation, or to a precise declaration that they are no longer in force, of the blockade of May, 1806, and that of Venice, especially the former.

I have now the honor to transmit a copy of the letter which, in pursuance of that determination, I have just sent to Lord Wellesley. I am not able to say what will be the nature of the answer to it; but if it should be satisfactory, I will lose no time in communicating it to General Armstrong. I have the honor to be, &c.

WILLIAM PINKNEY.

[Referred to in Mr. Pinkney's letter of May 2, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
April 30, 1810.

MY LORD: The French Minister for Foreign Affairs has stated, in an official note to General Armstrong, the Minister Plenipotentiary of the United States at Paris, that "the only condition required for the revocation by the French Government of the decree of Berlin, will be the previous revocation by the British Government of her blockades of France, or part of France (such as that from the Elbe to Brest, &c.) of a date anterior to the date of the aforesaid decree."

I had supposed that the blockades of France, instituted by Great Britain before the date of the Berlin decree, were already withdrawn, virtually, though not formally, by reason of the restrictions which they established having been provided for and comprehended in certain Orders in Council issued after the date of that decree; and your Lordship's letter to me of the 26th of last month certainly seems to confirm that supposition with regard to the blockade of May, 1806, although it proves it to be erroneous with regard to the only other blockade which falls within the description of the French Minister's communication, namely, the blockade of Venice established in July of the same year.

As I am anxious to neglect nothing which may have a tendency to produce the repeal of the Berlin decree, and of such other decrees and orders as the Government of the United States has from time to time complained of, I beg to inquire of your Lordship, with a view to the terms of the above-mentioned note to General Armstrong, whether there exists any objection on the part of His Majesty's Government to a revocation, or to a declaration that they are no longer in force, of the blockades in question, especially that of May, 1806. I have the honor to be, &c.

WILLIAM PINKNEY.

Marquis WELLESLEY, &c.

Mr. Pinkney to Mr. Smith.

LONDON, May 3, 1810.

SIR: I enclose a copy of a letter which I am about to send to Lord Wellesley, concerning the forgery in England of American ships' papers, for the purpose of giving to English vessels the character of American bottoms.

In conformity with your letter of the 3d of November last, which came to hand on the 10th of January, I mentioned the subject to Lord Wellesley as soon as I thought it expedient to do so. He gave no opinion upon it; but when I observed that it would perhaps be better to lay the matter before him at once in writing, he expressed his approbation of that course. As there is nothing in the subject itself, or in your letter, to forbid it, I shall send him my paper to-day or to-morrow. I have the honor to be, &c.

WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's letter of May 3, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
May 3, 1810.

MY LORD: I have the honor to call your Lordship's attention, in pursuance of the instructions of my Government, to a practice which has, for some time past, prevailed in this country, of forging American ships' papers for the purpose of giving to English vessels the character of American bottoms.

It appears, from various sources of information, that these fabrications are carried to a great extent, particularly in London, and that the fraudulent papers are purchased as a regular article of traffic, and used in numerous instances, so as to bring into suspicion the genuine documents on which the safety of American commerce depends, and to subject that commerce to serious vexation and loss.

I am confident, my Lord, that it is only necessary to suggest to His Majesty's Government the existence of these abuses, so injurious to the United States, and so pernicious in their general tendency, to induce it to cause immediate inquiry to be made, with a view to an efficacious remedy. I have, therefore, only to add, that I am in possession of some papers which throw considerable light on the subject, and which (with such other information as I have obtained or may obtain) I shall be happy to communicate to your Lordship whenever your Lordship thinks proper.

I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, May 18, 1810.

SIR: I have the honor to enclose a copy of a communication, made to me on the 14th instant, by Lord Wellesley, concerning a partial relaxation of the blockade, notified some time ago, of the coast and ports of Spain, between Gijon and the French territory. I have the honor to be, &c.

WILLIAM PINKNEY.

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[Referred to in Mr. Pinkney's letter of May 18.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, May 14, 1810.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to inform Mr. Pinkney, that the King has judged it expedient to signify his orders to the Lords Commissioners of the Admiralty to give the necessary directions to the officers employed in the blockade of the coast and ports of Spain, from Gijon to the French territory, that they permit, notwithstanding the said blockade, Spanish or neutral vessels laden with cargoes, the produce of Spain only, to sail from any port included in the limits of said blockade, subject, nevertheless, (as to the ports to which they trade,) to the restrictions of His Majesty's Orders in Council of the 26th of April, 1809, and of the 7th of January, 1807.

The undersigned requests Mr. Pinkney to accept assurances of his high consideration.

WELLESLEY.

Mr. Smith, Secretary of State, to Mr. Pinkney.

DEPARTMENT OF STATE, May 22, 1810.

SIR: Your despatch of the 27th of March, by the British packet, was received on the 17th of this month.

The President has read with surprise and regret the answer of Lord Wellesley to your letter of the 2d January, and also his reply to your note requiring explanations with respect to the blockade of France. The one indicates an apparent indifference as to the character of the diplomatic intercourse between the two countries, and the other evinces an inflexible determination to persevere in their system of blockade.

The provision made for the diplomatic agency which is to succeed that of Mr. Jackson, manifests a dissatisfaction at the step necessarily taken here with regard to that Minister, and at the same time a diminution of the respect heretofore attached to the diplomatic relations between the two countries. However persevering the President may be in the conciliatory disposition which has constantly governed him, he cannot be inattentive to such an apparent departure from it on the other side, nor to the duty imposed on him by the rules of equality and reciprocity applicable in such cases. It will be very agreeable to him to find that the provision in question is intended merely to afford time for a satisfactory choice of a Plenipotentiary, successor to Mr. Jackson, and that the mode of carrying it into effect may be equally unexceptionable. But while, from the language of the Marquis Wellesley, with respect to the designation of a *Chargé d'Affaires*, and from the silence as to any other successor to the recalled Minister, it is left to be inferred that the former alone is in contemplation, it becomes proper to ascertain what are the real views of the British Government on the occasion; and, should they be such as they are inferred to be, to meet them by a correspondent change in the diplomatic establishment of the

United States at London. The President relies on your discretion for obtaining the requisite knowledge of this subject in a manner that will do justice to the friendly policy which the United States wish to be reciprocal in every instance between the two nations. But in the event of its appearing that the substitution of a *Chargé d'Affaires* for a Minister Plenipotentiary is to be of a continuance not required or explained by the occasion, and consequently justifying the inference drawn from the letter of Lord Wellesley, the respect which the United States owe to themselves will require that you return to the United States, according to the permission hereby given by the President, leaving charged with the business of the Legation such person as you may deem most fit for the trust. With this view, a commission, as required by a statute of the last session, is herewith enclosed, with a blank for a secretary of Legation. But this step you will not consider yourself as instructed to take in case you should have commenced, with a prospect of a satisfactory result, the negotiation authorized by my letter of the 20th January.

In a letter of the fourth of this month I transmitted to you a copy of the act of Congress at their last session concerning the commercial intercourse between the United States, and Great Britain and France. You will herewith receive another copy of the same act. In the fourth section of this statute you will perceive a new modification of the policy of the United States, and you will let it be understood by the British Government that this provision will be duly carried into effect on the part of the United States.

A satisfactory adjustment of the affair of the Chesapeake is very desirable. The views of the President upon this delicate subject, you may collect, not only from the instructions heretofore given to you, but from the sentiments that had been manifested on the part of this Government in the discussion with Mr. Rose, and from the terms and conditions contained in the arrangement made with Mr. Erskine. And conformably with these views, thus to be collected, you will consider yourself hereby instructed to negotiate and conclude an arrangement with the British Government in relation to the attack on the frigate Chesapeake.

I have the honor to be, &c.

R. SMITH.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, June 13, 1810.

I have not yet obtained from Lord Wellesley an answer to my letter of the 30th of April, concerning the British blockades of France before the date of the Berlin decree. In a short conference on Sunday last, the 10th instant, I pressed for a prompt and favorable reply, and shall perhaps receive it in the course of a few days. I had requested an interview on this subject on the 18th of last month, in consequence of a letter brought by Mr. Lee from General Armstrong, dated the 2d of May; but the state of Lord Wel-

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lesley's health prevented its taking place sooner than the 10th instant.

I have sent Mr. Craig (a young gentleman from Philadelphia) as a messenger to General Armstrong. He carries a newspaper copy of the late act of Congress respecting commercial intercourse.

I have prepared an official letter to you on the affair of the Chesapeake; but, as Mr. Erving leaves town for Liverpool in the morning, there is not time to copy it. It shall be forwarded, however, by Mr. Morier, who is about to sail in the British frigate *Venus* for New York; or sent to Liverpool to the care of Mr. Maury. In the mean time, it will be sufficient to state to you that I am expecting every day Lord Wellesley's written overture in that affair, and that, in our conferences, which resulted in an understanding that he would make such an overture, no objection was made by him to an engagement to restore the men to the ship from which they were forcibly taken, without the offensive reservation prescribed to Mr. Rose and Mr. Erskine, and contained in Mr. Jackson's project; to offer a suitable provision, without any reservation, for the families of the sufferers, as a part of the terms of satisfaction; to forbear all reference, in the papers leading to or containing the arrangement, to the President's proclamation, or to anything connected with it; to adopt in those papers a style and manner not only respectful but kind to our Government; to recite in them (as in Mr. Erskine's letter to you in April, 1809) that Admiral Berkeley had been promptly disavowed, and, as a mark of His Britannic Majesty's displeasure, recalled from an important command. I have met, on this occasion, with nothing of a discouraging nature, except on the impracticable point of the trial and punishment of the offending officer. On that point it is impossible to prevail; but there will be no objection to my declaring, in a reply to the overture, the expectation of the American Government, that the officer shall be tried and punished, or to a rejoinder, (if I wish it,) on the part of Lord Wellesley, suggesting, in a friendly way, the reasons for not fulfilling that expectation.

Mr. Pinkney to Mr. Smith.

LONDON, June 26, 1810.

SIR: Lord Wellesley's answer to my letter of the 30th of April, concerning the British blockades of France anterior to the Berlin decree being still delayed, I have sent him the letter of the 23d instant, of which a copy is now transmitted.

I have the honor to be, &c.

WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's letter of June 26, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

June 23, 1810.

MY LORD: I beg to recall your Lordship's attention to the subject of the letter which I had the honor to address to you on the 30th of April

last, concerning the British blockades of France anterior to the Berlin decree.

My Government expects from me a communication on that subject; and your Lordship will, I am sure, take pleasure in enabling me, with as little delay as possible, to fulfil that expectation in a satisfactory manner.

I feel confident that, after the declaration of France, which I had the honor to state to your Lordship in that letter, and to mention in conference before and since its date, there will be no difficulty on the part of His Majesty's Government in revoking these blockades, or declaring that they are no longer in existence.

I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, July 1, 1810.

SIR: I have this day had the honor to receive your letter of the 23d [22d] of May, by Mr. Parish, and have sent a note to Lord Wellesley, requesting an interview; he is out of town, but will return to night or in the morning. The instructions contained in your letter concerning the inequality, supposed to be intended by this Government in the state of our diplomatic relations, shall be executed with the discretion which undoubtedly they require; and I am persuaded that the result will be perfectly satisfactory to the President. In the mean time, I think I can undertake to assure you that no change has taken place in the opinion of Lord Wellesley, as announced in my private letter to you of 4th January, that a Minister Plenipotentiary of rank should be sent to the United States. Certainly, no idea has been entertained here of a permanent or long-continued *Chargé d'Affaires*. It could only be intended to send one in the first instance; and I have reason to be confident that, for some time past, it has been in agitation to appoint a Minister Plenipotentiary without delay; that Lord Wellesley has, in fact, thought of and mentioned a person; and that Mr. Morier's departure has been put off in consequence.

In the case of the Chesapeake, I have already stated to you that I think there will be no difficulty, if the further punishment of Berkley is not made on our part a *sine qua non*. Your instructions are very clear, that this is not to be peremptorily insisted on.

I have nothing to add to my communication of the 26th ultimo, concerning the British blockades of France before the Berlin decree, except that I mean to press Lord Wellesley on that subject at our next interview, as I did at our last. I shall not fail, at the same time, to draw his attention to the Orders in Council and the intercourse act.

I need scarcely say that, if events should make it proper for me, in obedience to the President's commands, to return to America, (leaving a *Chargé d'Affaires*.) I shall lose no time in doing so. I have the honor to be, &c.

WILLIAM PINKNEY.

ROBERT SMITH, Esq., &c.

Relations with Great Britain.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

July 2, 1810.

SIR: Your several letters of the 8th and 9th of April, and the 2d and 3d of May, have been received.

Whilst it was not known, on the one hand, how far the French Government would adhere to the apparent import of the condition, as first communicated, on which the Berlin decree would be revoked, and, on the other hand, what explanations would be given by the British Government with respect to its blockades prior to that decree, the course deemed proper to be taken was that pointed out in my letter to you of the 11th of November, and in that to General Armstrong, of the 1st of December. The precise and formal declaration since made by the French Government, that the condition was limited to the blockades of France, or parts of France, of a date prior to the date of the Berlin decree, and the acknowledgment of the British Government of the existence of such blockades, particularly that of May, 1806, with a failure to revoke it, or even to admit the constructive extinguishment of it, held out in your letter to the Marquis Wellesley, give to the subject a new aspect and a decided character.

As the British Government had constantly alleged that the Berlin decree was the original aggression on our neutral commerce, that her Orders in Council were but a retaliation on that decree, and had, moreover, on that ground, asserted an obligation on the United States to take effectual measures against the decree as a preliminary to a repeal of the orders, nothing could be more reasonable than to expect that the condition, in the shape last presented, would be readily accepted. The President is therefore equally disappointed and dissatisfied at the abortiveness of your correspondence with Lord Wellesley on this important subject. He entirely approves the determination you took to resume it with a view to the special and immediate obligation lying on the British Government to cancel the illegal blockades; and you are instructed, in case the answer to your letter of the 30th of April should not be satisfactory, to represent to the British Government, in terms temperate but explicit, that the United States consider themselves authorized by strict and unquestionable right, as well as supported by the principles heretofore applied by Great Britain to the case, in claiming and expecting a revocation of the illegal blockades of France of a date prior to that of the Berlin decree, as preparatory to a further demand of the revocation of that decree.

It ought not to be presumed that the British Government, in reply to such a representation, will contend that a blockade like that of May, 1806, from the Elbe to Brest, a coast not less than one thousand miles, proclaimed four years since, without having been at any time attempted to be duly executed by the application of a naval force, is a blockade conformable to the law of nations,

and consistent with neutral rights. Such a pretext is completely barred, not only by the unanimous authorities both of writers and of treaties on this point, not excepting even British treaties; but by the rule of blockade communicated by that Government to this in the year 1804, in which it is laid down, that orders had been given not to consider any blockade of those islands (Martinique and Guadaloupe) as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports unless they shall previously have been warned not to enter them, and that they (the Lords of the Admiralty) had also sent the necessary directions on the subject to the Judges of the Vice-Admiralty Courts in the West Indies and America. In this communication it is expressly stated that the rule to the British courts and cruisers was furnished in consequence of the representations made by the Government of the United States against blockades, not unlike that now in question, and with the express view of redressing the grievance complained of. Nor ought it to be presumed that the British Government will finally resort to the plea that her naval force, although unapplied, is adequate to the enforcement of the blockade of May, 1806; and that this forms a legal distinction between that and the Berlin decree of November following. Were it admitted that an adequate force existed, and was applicable to such a purpose, the absurdity of confounding the power to do a thing with actually doing of it speaks for itself. In the present case the absurdity is peculiarly striking. A port blockaded by sea, without a ship near it, being a contradiction in terms, as well as a perversion of law and of common sense.

From the language of Lord Wellesley's two letters it is possible he may endeavor to evade the measure required by subtle comments on the posture given to the blockade of May, 1806, by the succeeding orders of 1807. But even here he is met by the case of the blockade of Copenhagen and the other ports of Zealand in the year 1808; at a time when these, with all Danish ports, were embraced by those very orders of 1807; a proof that, however the orders and blockades may be regarded as in some respects the same, they are regarded in others as having a distinct operation, and may, consequently, co-exist, being absolutely merged in or superseded the one by the other.

In the difficulty which the British Government must feel in finding a gloss for the extravagant principle of her paper blockades, it may perhaps wish to infer an acquiescence on the part of this Government, from the silence under which they have, in some instances, passed. Should a disposition to draw such an inference show itself, you will be able to meet it by an appeal, not only to the successful remonstrance in the letter to Mr. Thornton above cited, but to the answer given to Mr. Merry of June, 1806, to the notification of a blockade in the year 1806, as a precise and authentic record of the light in which such blockades and the notification of them were viewed by

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the United States. Copies of the answer have been heretofore forwarded, and another is now enclosed as an additional precaution against mis-carriage.

Whatever may be the answer to the representation and requisition which you are instructed to make, you will transmit it without delay to this Department. Should it be of a satisfactory nature, you will hasten to forward it also to the diplomatic functionary of the United States at Paris, who will be instructed to make a proper use of it for obtaining a repeal of the French decree of Berlin, and to proceed concurrently with you in bringing about successive removals by the two Governments of all their predatory edicts. I avail myself of this occasion to state to you, that it is deemed of great importance that our Ministers at foreign Courts, and especially at Paris and London, should be kept, the one by the other informed of the state of our affairs at each. I have the honor to be, &c.

R. SMITH.

WILLIAM PINKNEY, Esq. &c.

[Referred to in the letter of Mr. Pinkney, Sept. 21, 1810.]
Mr. Madison to Mr. Thornton, Chargé des Affaires of His Britannic Majesty.

DEPARTMENT OF STATE,

October 27, 1803.

SIR: The letters, of which copies are enclosed, were received last evening. One of them is from the British Consul General at New York; the other, a copy enclosed therein, of a letter to him from Commodore Hood, Commander-in-Chief of His Britannic Majesty's ships of war on the West India station. The letter bears date of the 25th of July last, and requests that the American Government, and agents of neutral nations, might be made acquainted that the islands of Martinique and Guadaloupe are, and have been, blockaded from the 17th of June preceding, by detachments from the squadron under his command, in order that there may be no plea for attempting to enter the ports of the islands.

It will no doubt, occur to you, sir, that such a communication would have been more properly made through another channel, than directly from the Consulate at New York. The importance and urgency of the subject, however, supersede the consideration of forms, and I lose no time in communicating to you the observations which the President deems it to require.

It will not escape your attention, that Commodore Hood's letter is dated no less than three months before it could have the effect of a notification; and that, besides this remarkable delay, the alleged blockade is computed from a date more than one month prior to that of the letter itself. But those circumstances, however important they may be, do not constitute the main objection to the proceeding of the British commander. His letter, instead of stating that a particular port or ports were blockaded by a force actually before them, declares, generally, two entire and considerable islands to be in a state of blockade. It can never be admitted that the trade of a neutral na-

tion, in articles not contraband, can be legally obstructed to any place not actually blockaded, or that any notification or proclamation can be of force, unless accompanied with an actual blockade. The law of nations is, perhaps, more clear on no other point than that of a siege or blockade, such as will justify a belligerent nation in restraining the trade of neutrals. Every term used in defining the case, imports the presence and position of a force rendering access to the prohibited place manifestly difficult and dangerous. Every jurist of reputation who treats with precision this branch of the law of nations, refers to an actual and particular blockade. Not a single treaty can be found which undertakes to define a blockade, in which the definition does not exclude a general or nominal blockade, by limiting it to the case of a sufficient force, so disposed as to amount to an actual and particular blockade. To a number of such treaties Great Britain is a party. Not to multiply references on the subject, I confine myself to the fourth article of the convention of June, 1801, between Great Britain and Russia, which having been entered into for the avowed purpose "of settling an invariable determination of their principles, upon the rights of neutrality," must necessarily be considered as a solemn recognition of an existing and general principle and right, not as a stipulation of any new principle or right limited to the parties themselves. The article is in the words following, viz: "That in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the Power which attacks it with ships stationary or sufficiently near, an evident danger of entering." It cannot be necessary to dwell on the inconsistency of the kind of blockade declared by Commodore Hood, with the principle laid down concerning the rights of neutrality, or on the consequences of the principle on which a blockade of whole islands, by a few ships, is founded, to the commerce and interests of neutral nations. If the islands of Martinique and Guadaloupe, the latter not less than two hundred and fifty, and the former nearly one hundred and fifty miles in circumference, and each containing a variety of ports, can be blockaded by detachments from a commodore's squadron, it is evident that a very inconsiderable portion of the British fleet may blockade all the maritime countries with which she is at war. In a word, such a principle completely sacrifices the rights of neutral commerce to the pleasure or the policy of the parties at war. But it deserves to be particularly remarked, that a power to proclaim general blockades, or any blockade not formed by the real presence of a sufficient force, to be exercised by officers, at a distance from the control of their Government, and deeply interested in enlarging the field of captures which they are to share, offers a temptation that must often aggravate the evils incident to the principle itself. You will infer, sir, from these observations, the serious light in which the President regards the proceeding, which is the subject of them, and will perceive the grounds on which the injuries accruing from

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it to our commerce, will constitute just claims of indemnification from the British Government. To diminish the extent of these injuries as much as possible, and to guard the good understanding and friendly relations of every sort, which are so desirable to both nations, against the tendency of such measures, will, I venture to assure myself, be sufficient motives with you to employ the interpositions with Commodore Hood which you may judge best adapted to the nature of the case.

I have the honor to be, &c.

JAMES MADISON.

EDWARD THORNTON, Esq.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

July 5, 1810.

SIR: Your last communications having afforded so little ground for expecting that the British Government will have yielded to the call on it to originate the annulment of the belligerent edicts against our lawful commerce, by cancelling the spurious blockade of May, 1806, (the first in the series,) it became a duty particularly incumbent upon us to press the other experiment held out in the late act of Congress, another copy of which is herewith sent. You will accordingly make that act, and the disposition of the President to give it effect, the subject of a formal communication.

The British Government ought not to be insensible of the tendency of superadding to a refusal of the course proposed by France for mutually abolishing the predatory edicts, a refusal held out by Congress; and it ought to find, in that consideration, a sufficient inducement to a prompt and cordial concurrence. The British Government must be conscious, also, of its having repeatedly stated that the acquiescence by the United States in the decrees of France was the only justification of its orders against our neutral commerce. The sincerity and consistency of Great Britain being now brought to the test, an opportunity is afforded to evince the existence of both. It may be added, that the form in which it is prescribed is as conciliatory as the proposal itself is unexceptionable.

As the act of Congress repealing the late restrictions on the commerce of the United States with two belligerents must be unequal in its operation, in case Great Britain should continue to interrupt it with France, inasmuch as France is unable to interrupt it materially with her, the British Government may feel a temptation to decline a course which might put an end to this advantage. But if the unworthiness and unfriendliness of such a purpose should not divert her from it, she ought not to overlook either the opportunity afforded her enemy of retorting the inequality, by a previous compliance with the act of Congress, or the necessity to which the United States may be driven by such abuse of their amicable advances, to resume, under new impressions, the subject of their foreign relations.

If the British Government should be disposed

to meet, in a favorable manner, the arrangement tendered, and should ask for explanations as to the extent of the repeal of the French decrees, which will be required, your answer will be as obvious as it must be satisfactory. The repeal must embrace every part of the French decrees which violate the neutral rights guarantied to us by the law of nations. Whatever parts of the decrees may not have this effect, as we have no right as a neutral nation to demand a recall of them, Great Britain can have no pretext, as a belligerent nation, to urge the demand. If there be parts of the decrees liable to objections of another kind, it lies with the United States alone to decide on the mode of proceeding with respect to them.

In explaining the extent of the repeal, which on the British side, is required, you will be guided by the same principle. You will accordingly let it be distinctly understood, that it must necessarily include an annulment of the blockade, of May, 1806, which has been avowed to be comprehended in, and identified with, the Orders in Council, and which is palpably at variance with the law of nations. This is the explanation which will be given to the French Government on this point by our Minister at Paris, in case it should there be required.

But there are plain and powerful reasons why the British Government ought to revoke every other blockade resting on proclamations, or diplomatic notifications, and not on the actual application of a naval force adequate to a real blockade.

1st. This comprehensive redress is equally due from the British Government to its professed respect for the law of nations, and to the just claims of a friendly Power.

2d. Without this enlightened precaution, it is probable, and may indeed be inferred from the letter of the Duke of Cadore to General Armstrong, that the French Government will draw Great Britain and the United States to issue on the legality of such blockades, by acceding to the act of Congress, with a condition that a repeal of the blockades shall accompany a repeal of the Orders in Council, alleging that the orders and blockades, differing little, if at all, otherwise than in name, a repeal of the former, leaving in operation the latter, would be a mere illusion.

3d. If it were even to happen that a mutual repeal of the orders and decrees could be brought about without involving the subject of blockades, and with a continuance of the blockades in operation, how could the United States be expected to forbear an immediate call for their annulment? or how long would it probably be before an appeal by France to the neutral law of impartiality would bring up the same question between the United States and Great Britain? And from whatever circumstances the issue on it may arise, the impossibility of maintaining the British side, with even a color of right or consistency, may be seen in the view taken of the subject in the correspondence with Mr. Thornton and Mr. Merry, already in your hands.

If the British Government should accede to the

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overture contained in the act of Congress, by repealing or so modifying its edicts as that they will cease to violate our neutral rights, you will transmit the repeal, properly authenticated, to General Armstrong, and, if necessary, by a special messenger, and you will hasten to transmit it also to this Department. With great respect, &c.

R. SMITH.

WILLIAM PINKNEY, Esq.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,
July 17, 1810.

SIR: You will herewith receive duplicates of my letters to you of the 13th, 16th, and 30th June, and 2d and 5th of July.

This despatch you will receive from Lieutenant Spence of the Navy, who is to proceed from New York in the sloop of war the *Hornet*. This public vessel has been ordered to England and to France, not only for the purpose of transmitting despatches to you, and to our functionary at Paris, but for the further purpose of affording you, as well as him, a safe opportunity of conveying to this Department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the Governments of England and France. And with a view to insure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe after the 1st day of October next. With respect, therefore, to the time you will detain Mr. Spence in London, you will be influenced by the information which you may receive from him as to the orders he may have from the commanding officer of the *Hornet*. I have the honor to be, &c.

R. SMITH.

WILLIAM PINKNEY, Esq.

Mr. Pinkney to Mr. Smith,

LONDON, July 23, 1810.

SIR: I followed up the conversation with Lord Wellesley, mentioned in my letter of the 6th instant, with a short note, of which a copy is enclosed, requesting information concerning the intention of this Government to send a Minister Plenipotentiary, without delay, to the United States, as the successor of Mr. Jackson.

Reflection seems to have suggested to Lord Wellesley some objections, which did not occur in the course of our conference, to giving this information in an official manner.

I was aware of this on Saturday last, but was not willing to forego a written communication on a matter which had taken a character of some delicacy and importance.

Lord Wellesley has endeavored to avoid his own difficulty and mine, by sending me the letter (marked "private") of which I have now the honor to transmit a copy.

As this letter is in conformity with his verbal assurances in conferences, and appears to leave no reasonable doubt upon the point to which it relates, I do not suppose that I can properly un-

dertake to question its sufficiency, either by pressing for a more formal communication, or by taking the step which your instructions of the 23d of May, in certain circumstances, prescribe to me.

I still believe that the affair of the Chesapeake will very soon be brought to a conclusion.

I have the honor to acknowledge the receipt (on the 21st instant, by Mr. Henry Izard,) of your letters of 13th and 16th of last month; and I take this opportunity to thank you for the private letter of the 5th ultimo, received at the same time. I have the honor to be, &c.

WILLIAM PINKNEY.

HON. ROBERT SMITH, &c.

[Enclosed in Mr. Pinkney's despatch of July 23.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, July 7, 1810.

MY LORD: In pursuance of the conversation which I had the honor to hold with your Lordship on the 6th instant, I take the liberty to request information, which I am sure will be readily given, concerning the intention of His Majesty's Government to send a Minister Plenipotentiary to the United States, as the successor of Mr. Jackson.

I have no doubt that it is intended to send such a successor without delay, as one of the means of restoring and maintaining the friendly relations of the two countries; but I shall, nevertheless, be glad to be authorized by your Lordship to make a communication to that effect to my Government. I have the honor to be, &c.

WILLIAM PINKNEY.

The MARQUIS WELLESLEY, &c.

[Referred to in Mr. Pinkney's despatch of July 23.]

Lord Wellesley to Mr. Pinkney.

APSLEY HOUSE, July 22, 1810.

SIR: I think it may be difficult to enter upon the subject of your last note, (respecting the diplomatic rank of our Minister in America,) in any official form.

But I have no difficulty in assuring you, that it is my intention immediately to recommend the appointment of an Envoy Extraordinary and Minister Plenipotentiary from the King to the United States.

I have the honor to be, &c.

WELLESLEY.

WILLIAM PINKNEY, Esq., &c.

Mr. Pinkney to Mr. Smith.

LONDON, August 14, 1810.

SIR: As Lord Wellesley still withheld his long-expected answer to my note of the 30th of April, respecting the British blockades anterior to the Berlin decree, and his written overture in the case of the Chesapeake, I sent him on the 8th instant a letter, of which a copy is enclosed. No importunity had before been spared which it became me to use.

I need not trouble you with comments on the obvious unwillingness of this Government to

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touch the first mentioned subject, or anything connected with its principles and practice respecting blockades, or with the system of the Orders in Council. Justice and policy both invite it to give the declaration which I have required; and certainly nothing has been omitted on my part to induce it to take that course. I fear, however, that the declaration will be declined, unless, indeed, Lord Wellesley should continue to evade my application, by returning no answer to it—a new practice, I think, which, little to be commended as it is, must, I presume, if persisted in here, be reciprocated in America.

It is truly surprising that, in the case of the Chesapeake, there should be the same backwardness. I can conjecture no motive for this hesitation to propose, in writing, terms arranged in conference between Lord Wellesley and myself, in an affair which it is the manifest interest of England to settle as soon as possible. It is now almost six weeks since Lord Wellesley last assured me (as he had before more than once assured me) that he would put me in possession of his formal overture in this case *immediately*. He knows that you have been made officially acquainted with that assurance; for I thought it advisable to submit to his perusal before it was transmitted (for the purpose principally of avoiding misunderstandings) my short letter to you of the 6th of last month, which states, that “in the business of the Chesapeake, he will write to me in a few days;” and further, that in that business “I do not expect any difficulty.”

There can be no misconception as to the terms to be offered; for, besides that they were stated with great precision in the conference alluded to in my letter to you of the 6th ultimo, as well as in several antecedent interviews, I wrote Lord Wellesley, the day after that conference, a private note, of which a copy is now transmitted, enclosing a memorandum in pencil of the terms which (exclusive of any further mark of displeasure to Admiral Berkeley, very decidedly discouraged by Lord Wellesley) “had been spoken of in our different conversations as fit to be proposed.” I do not find that I retained any copy of the memorandum in pencil; but the terms (agreeing in substance with those to which I informed you, in my letter of the 13th of June last, Lord Wellesley had no objection,) were to this effect:

1st. The overture to contain such a recital, or statement, as is found in Mr. Erskine's letter to you of the 17th April, 1809, of the prompt disavowal by His Britannic Majesty of the unauthorized act of his naval officer, whose recall, as a mark of the King's displeasure, from a highly important and honorable command, immediately ensued.

2d. To offer without any reservation the restoration of the men to the ships from which they were forcibly taken.

3d. To offer without any reservation, and as part of the terms of the international adjustment, a suitable pecuniary provision for the families of the persons slain in the attack, and for the wounded survivors.

It was moreover understood, that the paper proffering these terms would not contain the allusions which have heretofore occasioned embarrassment; that the whole affair would be made to take the most friendly character; and that I should be at liberty to express in my reply to the overture, if I thought fit, the expectation of my Government as to the further punishment of Admiral Berkeley.

I ought to add that, in all my conversations with Lord Wellesley on the case of the Chesapeake, he has shown not only a disposition but a wish to accommodate it, and that I am, therefore, the more astonished at the delay which has taken place.

In a few days I intend to renew my efforts to a conclusion, and to obtain an answer of some sort to my letter of the 30th of April. I am sufficiently inclined to present a strong paper upon both subjects; but in the actual posture of affairs, and in the absence of such instructions from you as would countenance such a step, I think it my duty to forbear a little longer.

It is not impossible that Lord Wellesley's backwardness to close the case of the Chesapeake with me, may arise from a desire that it should be adjusted in America through the new Minister. If this were so, however, he could have no inducement to conceal it from me, since he is aware that I have always entertained the same desire.

When I see him I will advert to this. I am not yet able to say positively who the new Minister will be. Lord ——— and some others are spoken of. Lord Wellesley has given me no other written information on the subject than is contained in his letter of the 22d ultimo, already communicated to you. His verbal information has been of the same effect, with this addition, that he retained his opinion (mentioned in my unofficial letter to you of the 4th of January last,) that the Minister to America ought to be a man of rank. As far as may be prudent, I shall not fail to do all that is in my power to expedite the appointment.

The letter from General Armstrong, to which my letter of the 8th instant to Lord Wellesley alludes, is dated the 24th of July; and expresses his wish that the declaration of the British Government concerning the blockades may be obtained and forwarded without delay.

I have the honor, &c.

WILLIAM PINKNEY.

Hon. ROBERT SMITH, &c.

Mr. Pinkney to Mr. Smith.

LONDON, August 18, 1810.

SIR: I enclose the “Times” newspaper of this morning, containing a copy of a French decree of the 8th instant, and of a letter of the same date from the French Minister for Foreign Affairs to General Armstrong. The last is a most important paper, of which I hope to receive, without delay, an official communication.

I have the honor to be, &c.

WILLIAM PINKNEY.

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Mr. Pinkney to Mr. Smith.

LONDON, August 21, 1810.

SIR: I have just received a communication from General Armstrong, dated the 6th instant, announcing the absolute revocation of the Berlin and Milan decrees, and have, in consequence, sent a note to Lord Wellesley, requesting to see him: Lord Wellesley is out of town, but will, it is said, return to-night or to morrow morning.

General Armstrong has not transmitted any copy of the official notice mentioned in his letter; but, I presume, it is the same with that published in the "Monitor" of the 9th, of which I am in possession, and with which the quotation in General Armstrong's letter agrees.

I do not know whether his construction of that document will be thought here to be liable to any objections. I think it impossible, however, that, upon any interpretation of it, this Government can hesitate to repeal its Orders in Council.

A copy of General Armstrong's letter to me is enclosed: I have the honor to be, &c.

WILLIAM PINKNEY.

[Enclosed in the preceding letter.]

Copy of General Armstrong's letter to Mr. Pinkney.

PARIS, August 6, 1810.

SIR: I have the honor to inform you that His Majesty, the Emperor and King, has been pleased to revoke his decrees of Berlin and Milan. Of this interesting fact I had this morning a written and official notice in the following words, viz: "Je suis autorisé à vous déclarer, monsieur, que les décrets de Berlin et de Milan sont révoqués, et qu'à dater du 1er Novembre ils cesseroient d'avoir leur effet."*

Sincerely hoping that you may be able to turn this circumstance to some useful account, I forward it per triplicate.

I am, sir, with great respect, &c.

[* TRANSLATION.]

I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect.

[This note was received at the Department of State on the 11th of November.]

[Referred to in Mr. Pinkney's despatch, Aug. 21, 1810.]
General Armstrong to Mr. Pinkney.

PARIS, August 7, 1810.

SIR: I hazarded a line or two yesterday, by the way of Morlaix, merely to inform you that the Imperial decrees of Berlin and Milan were at last given up. I now send you, by a more direct conveyance, a copy of the Duke of Cadore's letter to me of the 5th instant.

I am, sir, with great respect, &c.

JOHN ARMSTRONG.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, Friday, August 24, 1810.

I transmit a copy of my answer, formed upon your recent instructions, to Lord Wellesley's noti-

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fication of the blockade of Corfu. Is it not worthy of reflection, whether an attempt to blockade an entire sea like the Adriatic should not be protested against, whatever may be the force employed in closing the passage to it?

[Referred to in Mr. Pinkney's despatch of August 24.]

From Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

August 21, 1810.

MY LORD: I have had the honor to receive your official note of the 18th instant, communicating the resolution of the British Government to establish a blockade of the canal of Corfu, and shall not fail to transmit a copy of it, with as little delay as possible, to the Secretary of State of the United States.

In the mean time I take the liberty, in pursuance of the sentiments of the President heretofore signified to me, to observe to your Lordship that, as a blockade essentially implies a force on the spot for the purpose, and as the notification required in the case must be a warning to neutral traders of the fact that a blockade exists, the communication which your Lordship has made to me derives its title to the acknowledgment of the United States from the supposition that it was meant as a friendly premonition, which, though imposing of itself no legal restraint on neutrals, nor inducing any penal consequences, might usefully influence the course of their mercantile expeditions. In this sense the communication will be received by the President, as a mark of that friendly attention which ought, in all cases, to be reciprocally maintained; and in this sense the President will be the more disposed to regard the communication, as a different one would contradict the definition of a blockade, and of the requisite notification thereof, contained in the orders of the British Government to Commodore Hood and the Judges of the Vice Admiralty Courts, as communicated to the American Government by Mr. Merry, on the 12th of April, 1804.

I have the honor to be, &c.

WM. PINKNEY.

The MARQUIS OF WELLESLEY, &c.

[Referred to in Mr. Pinkney's letter of Sept. 3, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

August 25, 1810.

MY LORD: I have the honor to state to your Lordship that I have received from General Armstrong, Minister Plenipotentiary of the United States at Paris, a letter, bearing date the 6th instant, in which he informs me that the Government of France has revoked the decrees of Berlin and Milan, and that he has received a written and official notice of that fact in the following words: "Je suis autorisé à vous déclarer, que les décrets de Berlin et de Milan sont révoqués, et qu'à dater du 1er Novembre ils cesseroient d'avoir leur effet."

I take for granted that the revocation of the British Orders in Council of January and November, 1807, and April, 1809, and of all other orders

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dependent upon, analogous to, or in execution of them, will follow of course; and I shall hope to be enabled by your Lordship, with as little delay as possible, to announce to my Government that such revocation has taken place.

I have the honor to be, &c.

WM. PINKNEY.

The MARQUIS WELLESLEY, &c.

Mr. Pinkney to Mr. Smith.

LONDON, August 29, 1810.

SIR: I dined yesterday with Lord Wellesley, and found that he had only returned to town in the morning. He still complained of indisposition, but it certainly could not be considered as unfitting him for business. In a short conversation before dinner, he told me that my note respecting the Berlin and Milan decrees should be mentioned to his colleagues to-day; and that I should have an immediate answer; that the affair of the Chesapeake "would be settled to my satisfaction;" that he believed he should recommend to the King the appointment of a Minister Plenipotentiary to the United States either this week or the next; that he had two persons in his eye, (both men of high rank,) but that he could not with propriety name them to me at present. As far as the opportunity permitted, I urged promptitude on all these subjects as indispensable, and expressed my confidence that they would be disposed of in season for the approaching meeting of Congress.

You perceive that, notwithstanding past promises, nothing has yet been done, and that there is no security that we shall have anything but promises. I am truly disgusted with this; and would, if I followed my own inclination, put a speedy end to it. It is better, however, to do nothing of an irritating nature, until this Government has had full time to act upon my note of the 25th. Even if it should decline to repeal the Orders in Council, (which I am told is quite possible,) a moderate course on my part will have the recommendation of putting it more clearly in the wrong.

If it should decline to repeal, the President may be assured that I will not fail to present such a paper as conduct so extraordinary will demand; and, if further delays are effected, that I shall remonstrate in very decided terms.

I have the honor to be, &c.

WM. PINKNEY.

HON. ROBERT SMITH.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, August 31, 1810.

SIR: I have the honor to acknowledge the receipt of your letter under date the 25th instant.

On the 23d of February, 1808, His Majesty's Minister in America declared to the Government of the United States "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system

which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary."

I am commanded by His Majesty to repeat that declaration, and to assure you that whenever the repeal of the French decrees shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which it stood previously to the promulgation of those decrees, His Majesty will feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq.

Mr. Pinkney to Mr. Smith.

LONDON, September 3, 1810.

SIR: Lord Wellesley sent me his answer yesterday to my note of the 25th ultimo, respecting the Berlin and Milan decrees. I hasten to transmit a copy of it. A copy shall be sent without delay to General Armstrong.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Armstrong.

LONDON, September 3, 1810.

SIR: I received yesterday from Lord Wellesley an answer, dated the 31st of last month, to my note of the 25th, in which I communicated to him the purport of your letter to me of the 6th, respecting the Berlin and Milan decrees; and I hasten to put you in possession (by a special messenger) of a copy of each of those papers, to be used according to your discretion.

It is extremely desirable that I should have, without loss of time, the benefit of such reflections upon this answer as you may be disposed to favor me with, and of such information, calculated to regulate my course with regard to it, as your local position may enable you to furnish.

Your letters of the 6th and 7th ultimo concur in representing, (with perfect propriety, I think,) that the revocation of the Berlin and Milan decrees is to take effect *absolutely* after the 1st of November, and I have so put it to the British Government. You will let me know if any error (which I do not in the least suspect) has been discovered in this representation, or if it is necessary that the subject should be brought before this Government in any other form than that which, looking to your representation, I have chosen.

You will perceive that the pledge contained in Lord Wellesley's answer is referred to the period when the repeal of the French edicts shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which those edicts found it. In case there is nothing equivocal in these last expressions, the pledge is, I presume, sufficient for the present, if the recall of the French decrees does not depend on a condition precedent, as some

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have supposed. If, on the other hand, it is understood that, before the French repeal is to take effect, namely, before the 1st or 2d of November, Great Britain must revoke her Orders in Council, so that the orders shall cease to operate at the same moment with the decrees; or, if it is understood that the British blockades, to which France objects, (that of May, 1806, for example,) must be recalled, or declared not to be in force, before the same period; then, undoubtedly, the pledge is nothing. If the pledge is sufficient, we have only to let the matter rest until November. If it is insufficient, I cannot be too soon employed in taking a new course.

I ought to mention, however, that I am now preparing a note to Lord Wellesley, to be presented in a few days, concerning the blockades. This step is proper, and, I think, indispensable, whether the revocation of the decrees of France depends upon those blockades being put out of the way or not.

Begging you to let me hear from you as soon as convenient, I am, sir, with great respect and consideration, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, September 4, 1810.

SIR: I have just received your letters by Lieutenant Spence. Their dates are as follows: 17th July, 1810; 5th July, (original and duplicate); 2d July, (original and duplicate); 30th June, (original and duplicate); 16th June, (duplicate, the original had been received before); 13th June, (duplicate, the original had already been received.)

I have only time to add, that the repeal of the French decrees (as communicated to me by General Armstrong,) and the reply of Lord Wellesley of the 31st ult., to my communication on that subject, do not appear to me to take away the necessity of executing the instructions contained in your letters of the 2d and 5th of July, relative to the British blockades, although they may affect the manner of executing those instructions. The note, which I intend to present on this occasion, will be ready in a day or two, and shall be sent in immediately. I have the honor to be, &c.

WM. PINKNEY.

P. S. Lord Wellesley sent me a message yesterday, through Mr. Hamilton, that, if I still wished to see him on the subject of my late communication, he would receive me to-day. I replied that I had no wish to see him on that subject, but that it might be necessary to write him a note upon it hereafter. I mean to confine myself as much as possible to written intercourse with Lord Wellesley.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, September 7, 1810.

SIR: It has been supposed here, that the notification of a blockade of the "Canal of Corfu," on

the 18th of last month, was intended to close the Adriatic; and the English newspapers, as you will have perceived, so represented it. In my letter to you of the 20th ult., communicating a copy of that notification, I have adopted this construction, which now appears to be erroneous. The "canal," to which the notification is now understood to apply, is the narrow passage to the eastward of Corfu.

I have the honor to be, &c.

WM. PINKNEY.

ROBERT SMITH, Esq., &c.

Mr. Pinkney to Mr. Smith.

LONDON, September 15, 1810.

SIR: I send, enclosed, a copy of a second letter which I have written to Lord Wellesley, respecting the stoppage of American vessels attempting to pass the Sound, together with a copy of the protest of the master of the American ship Alert, mentioned in that letter, which is well entitled to your attention. I have the honor to be, &c.

WM. PINKNEY.

[Referred to in Mr. Pinkney's letter of Sept. 15, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
September 15, 1810.

MY LORD: In my note of the 1st instant, I had the honor to inform your Lordship, that it had been stated to me, in a letter from Gottenburg, that, in consequence of some misconception of the effect of the order for establishing a blockade of Elsinore in May last, American vessels had recently been prevented from passing the Sound by the English naval force in that quarter; and I requested, that, if this statement was correct, such explanations might be transmitted to the British Commander, as might, at least, confine the blockade in question to the port against which it had been professedly instituted.

As I have not received any answer to that note, and, consequently, do not know whether any order has been given to remove the interruption which it mentions, I feel it to be necessary to lay before your Lordship the enclosed original protest of the master of the American ship Alert, which appears to establish the existence of that interruption in a form as exceptionable as it could possibly assume.

Whatever may be the ground upon which Sir James Saumarez has thought fit to issue his orders to close the passage of the Sound to American vessels, returning in the prosecution of a lawful trade to the United States, or proceeding in a contrary direction, your Lordship will, I am persuaded, think with me, that my Government has a fair claim to be made acquainted, either through me, or through such other channel as your Lordship may deem more proper, with the intentions of the British Government on the subject.

Before I conclude this letter, I must call your Lordship's attention to the particular circumstances of the case which has mainly produced

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it, and to the redress which those circumstances plainly require.

The *Alert* has been seized and sent to England by the *Africa* for *salvage*. The peril from which she was saved—if she was saved from any peril—was created by the injustice of the capturing vessel, in turning her from the regular course of her homeward voyage.

That the commander of the *Africa*, or those under whom he acted, should be responsible to the utmost for the loss occasioned by that injustice, seems to be perfectly reasonable; but it is difficult to imagine in what way he can expect to derive from it a right to inflame the loss for his own advantage. I trust that the attempt will be repressed in a suitable manner, and that, in place of salvage to be paid by the injured neutral, compensation will, in some mode or other, be awarded to him for the damages he has been made to sustain.

The impressment, on board the *Alert*, of four American seamen by the *Africa*, cannot be passed unnoticed. This abuse could not fail to be interesting under any circumstances; but, on this occasion, (supposing the enclosed narrative to be true,) it is not only characterized by an utter disregard of the rights of the American Government, and by the oppression of its citizens, but is practised under a show of friendly protection, and aggravated by every practical wrong which could well be associated with it.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
September 21, 1810.

MY LORD: On the 30th of April last, I had the honor to address a note to your Lordship, in which, upon the inducements which it stated, I took the liberty to inquire whether there was any objection, on the part of His Majesty's Government, to a revocation, or to a declaration that they were no longer in force, of the British blockades of France, of a date anterior to the Berlin decree.

In a second note, of the 23d of June, I had the honor to recall your Lordship's attention to that inquiry, and to add that my Government expected from me a communication upon it. And on the 8th of August, it was again brought to your Lordship's recollection in the same mode. It was, moreover, mentioned in several conversations after the delivery of my first note, which had, in fact, been preceded by verbal explanations on my part, as well as by an abortive correspondence in writing, to which some of those explanations were preparatory.

If I had been so fortunate as to obtain for my hitherto unanswered inquiry, the notice which I had flattered myself it might receive, and to which I certainly thought it was recommended by the plainest considerations of policy and justice, it would not, perhaps, have been necessary for me to trouble your Lordship with this letter, the pur-

pose of which is in very few words to remind His Majesty's Government, in pursuance of my instructions, of the sentiments and expectations of the Government of the United States, respecting such blockades as that which my inquiry principally regarded.

Those sentiments and expectations are so well explained in two letters, from Mr. Secretary Madison, of the 27th of October, 1803, to Mr. Thornton, and of the 3d of June, 1806, to Mr. Merry, that very little more is required, in the execution of my instructions on this occasion, than that I should refer your Lordship to the copies of those letters, which are herewith transmitted.

Your Lordship will perceive that the strong and conclusive objections, in law and reason, to be found in those papers, (especially in the first, which was occasioned by a communication from the British Consul at New York, of a notice from Commodore Hood, in July, 1803, that the islands of Martinique and Gaudaloupe were, and for some time had been, blockaded,) apply to several blockades which Great Britain has lately pretended to establish; but in a particular manner to that of May, 1806, (from the Elbe to Brest, inclusive) to that in the spring of 1808, of the whole island of Zealand, and to that, in March, 1809, of the isles of Mauritius and Bourbon.

The Government of the United States can discover no just foundation for these and other similar attempts to blockade entire coasts, by notifications with which the fact has no correspondence. It views them as unwarrantable prohibitions of intercourse rather than regular blockades, and as resembling, in all their essential qualities, the extraordinary decrees and orders, which, for the last four years, have nearly obliterated every trace of the public law of the world, and discouraged by menaces of hostile interruption, and pursued with seizure and confiscation the fairest and most innocent trade of neutral merchants.

It may now be hoped that those decrees and orders are about to disappear forever; and I think I may presume that, as my Government expects, no blockade like that of May, 1806, will survive them.

Your Lordship has informed me, in a recent note, that it is "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity." And I cannot suppose that this freedom is understood to be consistent with vast constructive blockades, which may be so expanded at pleasure, as, without the aid of any new device, to oppress and annihilate every trade but that which England thinks fit to license. It is not, I am sure, to such freedom that your Lordship can be thought to allude.

I am the more inclined to be confident on this point, because I have now before me a well-known official exposition, conceived in terms the most exact, of the British doctrine of blockade, as it stood in 1804, contained in the reply of Mr. Merry, His Majesty's Minister in America, to the very able remonstrance above mentioned from Mr. Madison to Mr. Thornton.

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In that reply (of the 12th of April, 1804,) it is formally announced to the Government of the United States, "by His Majesty's command, signified to Mr. Merry by the principal Secretary of State for Foreign Affairs, that, for redressing the grievance complained of" by the American Government, orders had been sent to Commodore Hood (and the necessary directions given to the Vice-Admiralty Courts in the West Indies and America) "not to consider any blockade of the islands of Martinique and Gaudaloupe as existing, unless in respect of particular ports which might be actually invested; and then not to capture vessels bound to such ports, unless they should previously have been warned not to enter them."

It is natural to conclude, that, though the "grievance," which this frank communication condemns, has been since so often repeated, as almost to make us lose sight of the rule in the multitude of its violations, your Lordship could not speak of the restoration of the just freedom of commerce, as an event desired by Great Britain, without some reference to the neglected doctrine of this paper, and without some idea of reviving it.

With regard to the blockade of May, 1806, I regret that I have failed to obtain an admission, apparently warranted by facts, and invited by circumstances, that it is not in force.

Your Lordship's answers to my letters of the 15th of February and 7th of March last, appear to justify the opinion that this blockade sunk into the Orders in Council of 1807, with which it was perfectly congenial. It can scarcely be said, that, since the promulgation of those orders, there has been even a show of maintaining it, as an actual blockade, by a stationary force, adequate or inadequate, distributed with that view along the immense line of coast which it affected to embrace. And if it has not been constantly so maintained, nor even attempted to be maintained, as an actual blockade, but has yielded its functions since 1807 to Orders in Council, neither being, nor professing to be, actual blockades, it may, I imagine, be very safely asserted that it exists no longer.

But as this conclusion has not been adopted, but has rather been resisted by your Lordship, it is my duty, in transmitting the enclosed copy of an act of the Congress of the United States, passed on the 1st of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," to state to your Lordship that an annulment of the blockade of May, 1806, is considered by the President to be as indispensable, in the view of that act, as the revocation of the British Orders in Council. I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, September 28, 1810.

SIR: I have already sent you a copy of Lord Wellesley's reply to that part of my letter of the 15th instant which particularly respected the case of the *Alert*. The amount of that reply was, that

Government could not interfere, and that the case must be left to the Court of Admiralty.

I now transmit his answer to that part of my letter which regarded the effect of the blockade of Elsinore, (as it was interpreted by Sir James Saumarez,) on the passage of the Sound; from which it appears that it is not yet intended to close that passage.

No notice has been taken of the residue of my letter concerning the four American seamen taken from the *Alert*.

As I have transmitted you a copy of Lord Wellesley's reply to my application for the release of the *Mary*, from which it was to be inferred that she would be immediately released, I ought now to mention that, so far from being released, she is to be forthwith proceeded against as prize. These things require a large stock of patience.

I have the honor to be, &c.

WM. PINKNEY.

ROBT. SMITH, Esq. &c.

[Referred to and enclosed in the preceding.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, Sept. 26, 1810.

The Marquis Wellesley has the honor to acquaint Mr. Pinkney, in answer to that part of his letter of the 15th instant, relating to an alleged misconception of the Order in Council for the blockade of Elsinore, that it is the intention of His Majesty's Government that that blockade should be strictly confined to the port of Elsinore, and that it does not affect any vessels professedly bound up the Sound, unless it should appear from their papers that they are bound to Elsinore.

The Marquis Wellesley begs to renew to Mr. Pinkney the assurance of his high consideration.

WM. PINKNEY, Esq. &c.

Mr. Pinkney to Mr. Smith.

LONDON, Oct. 3, 1810.

SIR: Lord Wellesley's communication concerning the passage of the Sound was supposed, by a merchant here to whom I showed it, to be ambiguous, by reason of the expressions "bound up the Sound," &c.

The ambiguity has, however, been removed (if, indeed, there was any) by a note which I have just received from the Foreign Office in answer to one from me.

It says that "no vessel will be subject to the restrictions of the blockade of Elsinore but such as may be going to that port, in whatever direction they may be passing the Sound." It says further, that "the *equivogue* in the original communication was certainly not intentional." I have the honor to be, &c.

WM. PINKNEY.

Mr. Smith, Secretary of State, to Mr. Pinkney.

DEPARTMENT OF STATE,

October 19, 1810.

SIR: Your despatch of the 24th of August, enclosing a newspaper statement of a letter from the Duke of Cadore to General Armstrong, notifying

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a revocation of the Berlin and Milan decrees, has been received. It ought not to be doubted that this step of the French Government will be followed by a repeal on the part of the British Government of its Orders in Council. And if a termination of the crisis between Great Britain and the United States be really intended, the repeal ought to include the system of paper blockades, which differ in name only from the retaliatory system comprised in the Orders in Council. From the complexion of the British prints, not to mention other considerations, the paper blockades may, however, not be abandoned. There is hence a prospect that the United States may be brought to issue with Great Britain on the legality of such blockades. In such case, as it cannot be expected that the United States, founded as they are in law and in right, can acquiesce in the validity of the British practice, it lies with the British Government to remove the difficulty. In addition to the considerations heretofore stated to you in former letters, you may bring to the view of the British Government the retrospective operation of those diplomatic notifications of blockades which consider a notice to the Minister as a notice to his Government, and to the merchants who are at a distance of three thousand miles. It will recur to your recollection that the present Ministry, in the debates of Parliament, in opposition to the authors of the orders of January, 1807, denied that they were warranted by the law of nations. The analogy between these orders and the blockade of May, 1806, in so far as both relate to a trade between enemy ports, furnishes an appeal to the consistency of those now in office, and an answer to the attempts by them to vindicate the legality of that blockade. It is remarkable, also, that this blockade is founded on "the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of British subjects." What are those means? In what respect do they violate our neutral rights? Are they still in operation? It is believed that true answers to these questions will enforce the obligation of yielding to our demands on this subject. You may, also, refer the British Government to the characteristic definition of a blockaded port, as set forth in their treaty with Russia of June, 1801, the preamble of which declares that one of its objects was to settle "an invariable determination of their principles upon the right of neutrality."

Should the British Government unexpectedly resort to the pretext of an acquiescence, on the part of the United States, in their practice, it may be remarked that, prior to, as well as during, the present Administration, this Government has invariably protested against such pretensions; and, in addition to other instances heretofore communicated to you, I herewith transmit to you an extract of a letter to the Department of State of July 15, 1799, from Mr. King our Minister at London, and also such part of Mr. Marshall's letter to him of the 20th September, 1800, as relates to the subject of blockades. And it may, moreover, be urged, that the principle now contended for by the United States was maintained against

others, as well as Great Britain, as appears from the accompanying copy of the letter to our Minister at Madrid in the year, 1801. To this principle the United States also adhered, when a belligerent, as in the case of the blockade of Tripoli, as will be seen by the annexed letters from the Navy Department. You will press on the justice, friendship, and policy of Great Britain such a course of proceeding as will obviate the dilemma resulting to the United States from a refusal to put an end to the paper blockades as well as the Orders in Council.

The necessity of revoking the blockade of Copenhagen, as notified to you in May, 1808, will not escape your attention. Its continuance may embarrass us with Denmark, if not with France. Your answer as to the Corfu blockade is approved; and should the answer to it render a reply necessary, the President directs you to remonstrate against such a blockade; availing yourself, as far as they may be applicable, of the ideas in the letter to Mr. Charles Pinckney of October, 1801, and particularly of the proof it affords of our early remonstrance against the principle of such blockades.

No communication having yet been made by General Armstrong of a letter to him from the Duke of Cadore, declaring that the Berlin and Milan decrees will cease to be in force from the 1st day of November next, I can at this time only inform you, that if the proceedings of the French Government, when officially received, should correspond with the printed letter of the Duke of Cadore, enclosed in your despatch, you will let the British Government understand that on the 1st day of November the President will issue his proclamation, conformably to the act of Congress, and that the non-intercourse law will consequently be revived against Great Britain. And if the British Government should not, with the early notice received of the repeal of the French decrees, have revoked all its orders which violate our neutral rights, it should not be overlooked that Congress, at their approaching session, may be induced not to wait for the expiration of the three months (which were allowed on the supposition that the first notice might pass through the United States) before they give effect to the renewal of the non-intercourse. This consideration ought to have its weight in dissuading the British Government from the policy, in every respect misjudged, of procrastinating the repeal of its illegal edicts.

If the British Government be sincerely disposed to come to a good understanding, and to cultivate a friendly intercourse with the United States, it cannot but be sensible of the necessity, in addition to a compliance with the act of Congress, of concluding, at this time, a general arrangement of the topics between the two countries; and, above all, such a one as will, upon equitable terms, effectually put a stop to the insufferable vexations to which our seamen have been, and yet are exposed, from the British practice of impressment; a practice which has so strong a bearing on our neutrality, and to which no nation can submit consistently with its independence. To this very in-

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teresting subject you will therefore recall the attention of the British Government, and you will accordingly consider yourself hereby authorized to discuss and adjust the same separately, conformably to the instructions in my letter to you of the 20th January last; on the condition, however, contained in that letter, namely, that the requisite atonement shall have been previously made in the case of the outrage on the Chesapeake. But as in this case every admissible advance has been exhausted on the part of the United States, it will be improper to renew the subject to the British Government, with which it must lie to come forward with the requisite satisfaction to the United States. You will, therefore, merely evince a disposition to meet in a conciliatory form any overtures that may be made on the part of the British Government.

The British Government, having so long omitted to fulfil the just expectations of the United States in relation to a successor to Mr. Jackson, notwithstanding the reiterated assurances to you of such an intention, has no claims to further indulgence. On the receipt of this letter, therefore, should the appointment of a Plenipotentiary successor not have been made and communicated to you, you will let your purpose be known of returning to the United States, unless, indeed, the British Government should have unequivocally manifested a disposition to revoke their Order in Council conformably to the act of Congress of May last, and our affairs with them should have accordingly taken so unfavorable a turn as to justify, in your judgment, a further suspension of it.

I have the honor to be, &c.

R. SMITH.

[Referred to in the letter of the Secretary of State of October 19, 1810.]

Extract of a letter from Mr. King, Minister Plenipotentiary of the United States at London, to Mr. Pickering, Secretary of State, dated

LONDON, July 15, 1799.

Seven or eight of our vessels, laden with valuable cargoes, have been lately captured, and are still detained for adjudication. These vessels were met in their voyage to and from the Dutch ports declared to be blockaded. Several notes* have passed between Lord Grenville and me upon this subject, with the view, on my part, of establishing a more limited and reasonable interpretation of the law of blockade than is attempted to be enforced by the English Government. Nearly one hundred Danish, Russian, and other neutral ships, have, within a few months, been in like manner intercepted, going to and returning from the United Provinces. Many of them, as well as some of ours, arrived in the Texel in the course of the last Winter, the severity of which obliged the English fleet to return to their ports, leaving a few frigates only to make short cruises off the Texel, as the season would allow.

My object has been to prove that, in this situa-

*See the note from Mr. King to Lord Grenville, immediately following.

tion of the investing fleet, there can be no effective blockade, which, in my opinion, cannot be said to exist without a competent force stationed and present at or near the entrance of the blockaded port.

Extract of a letter from Mr. King to Lord Grenville, dated

DOWNING STREET,

LONDON, May 23, 1799.

It seems scarcely necessary to observe, that the presence of a competent force is essential to constitute a blockade; and, although it is usual for the belligerent to give notice to neutral nations when he institutes a blockade, it is not customary to give any notice of its discontinuance; and that, consequently, the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade, in like manner as the actual investment of a besieged place is the only evidence by which we decide whether the siege is continued or raised. A siege may be commenced, raised, recommenced, and raised again; but its existence at any precise time must always depend upon the fact of the presence of an investing army. This interpretation of the law of blockade is of peculiar importance to nations situated at a great distance from each other, and between whom a considerable length of time is necessary to send and receive information.

[Referred to in the letter of the Secretary of State of October 19, 1810.]

Extract of a letter from Mr. Marshall, Secretary of State, to Mr. King, dated

SEPTEMBER 20, 1800.

The right to confiscate vessels bound to a blockaded port has been unreasonably extended to cases not coming within the rule as heretofore adopted.

On principle, it might well be questioned whether this rule can be applied to a place not completely invested by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate supplies designed for a blockaded town, it will be difficult to resist the conviction that its extension to towns invested by sea only is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle (a departure which has received some sanction from practice) that we mean to complain. It is, that ports, not effectually blockaded by a force capable of completely investing them, have yet been declared in a state of blockade, and vessels attempting to enter therein have been seized, and, on that account, confiscated.

This is a vexation proceeding directly from the Government, and which may be carried, if not resisted, to a very injurious extent. Our merchants have greatly complained of it, with respect to Cadiz and the ports of Holland.

If the effectiveness of the blockade be dispensed with, then every port of all the belligerent Powers may, at all times, be declared in that state, and the commerce of neutrals be thereby subjected to

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universal capture. But if this principle be strictly adhered to, the capacity to blockade will be limited by the naval force of the belligerent, and, of consequence, the mischief to neutral commerce cannot be very extensive. It is, therefore, of the last importance to neutrals, that this principle be maintained unimpaired.

I observe that you have pressed this reasoning on the British Minister; who replies, that an occasional absence of a fleet from a blockaded port ought not to change the state of the place:

Whatever force this observation may be entitled to where that occasional absence has been produced by accident, as a storm, which for a moment blows off the fleet and forces it from its station, which station it immediately resumes, I am persuaded that where a part of the fleet is applied, though only for a time, to other objects, or comes into port, the very principle requiring an effective blockade, which is, that the mischief can then only be co-extensive with the naval force of the belligerent, requires that, during such temporary absence, the commerce of neutrals to the place should be free.

[Referred to in the letter of the Secretary of State, of October 19, 1810.]

Extract of a letter from Mr. Madison to Mr. Charles Pinckney, dated

DEPARTMENT OF STATE,
October 25, 1801.

The pretext for the seizure of our vessels seems at present to be, that Gibraltar has been proclaimed in a state of blockade, and that the vessels are bound to that port. Should the proceeding be avowed by the Spanish Government, and defended on that ground, you will be able to reply:

1. That the proclamation was made as far back as the 15th of February, 1800, and has not since been renewed; that it was immediately protested against by the American and other neutral Ministers at Madrid, and not warranted by the real state of Gibraltar; and that no violations of neutral commerce having followed the proclamation, it was reasonably concluded to have been rather a menace against the enemies of Spain than a measure to be carried into execution against her friends.

2. That the state of Gibraltar is not, and never can be, admitted by the United States to be that of a real blockade. In this doctrine they are supported by the law of nations, as laid down in the most approved commentators; by every treaty which has undertaken to define a blockade, particularly those of latest date* among the maritime nations of Europe; and by the sanction of Spain herself, as a party to the armed neutrality, in the year 1791. The spirit of articles fifteen and sixteen of the treaty between the United States and Spain may also be appealed to as favoring a liberal construction of the rights of the parties in such cases. In fact, the idea of an investment, a siege, or a blockade, as collected from the author-

ities referred to, necessarily results from the force of those terms; and, though it has been sometimes grossly violated or evaded by powerful nations in pursuit of favorite objects, it has invariably kept its place in the code of public law, and cannot be shown to have been expressly renounced in a single stipulation between particular nations.

3. That the situation of the naval force at Algeziras, in relation to Gibraltar, has not the shadow of likeness to a blockade, as truly and legally defined. This force can neither be said to invest, besiege, or blockade the garrison, nor to guard the entrance into the port. On the contrary, the gunboats infesting our commerce have their stations in another harbor, separated from that of Gibraltar by a considerable bay; and are so far from beleaguering their enemy at that place, and rendering the entrance into it dangerous to others, that they are, and ever since the proclamation of a blockade have been, for the most part, kept at a distance by a superior naval force, which makes it dangerous to themselves to approach the spot.

4. That the principle on which the blockade of Gibraltar is asserted is the more inadmissible, as it may be extended to every other place in passing to which vessels must sail within the view and reach of the armed boats belonging to Algeziras. If, because a neutral vessel bound to Gibraltar can be annoyed and put in danger by way-laying cruisers, which neither occupy the entrance into the harbor, nor dare approach it, and by reason of that danger is liable to capture, every part of the Mediterranean coasts and islands, to which neutral vessels must pass through the same danger, may with equal reason be proclaimed in a state of blockade, and the neutral vessels bound thereto made equally liable to capture; or, if the armed vessels from Algeziras alone should be insufficient to create this danger in passing into the Mediterranean, other Spanish vessels, co-operating from other stations, might produce the effect, and thereby not only blockade any particular port, or the ports of any particular nation, but blockade at once a whole sea, surrounded by many nations. Like blockades might be proclaimed by any particular nation, enabled by its naval superiority to distribute its ships at the mouth of the same, or any similar sea, or across channels or arms of the sea, so as to make it dangerous for the commerce of other nations to pass to its destination. These monstrous consequences condemn the principle from which they flow, and ought to unite against it every nation, Spain among the rest, which has an interest in the rights of the sea. Of this, Spain herself appears to have been sensible in the year 1780, when she yielded to Russia ample satisfaction for the seizures of her vessels, made under the pretext of a general blockade of the Mediterranean, and followed it with her accession to the definition of a blockade contained in the armed neutrality.

5. That the United States have the stronger ground for remonstrating against the annoyance of her vessels on their way to Gibraltar, inasmuch

* The late treaties between Russia and Sweden, and between Russia and Great Britain.

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as, with very few exceptions, their object is not to trade there for the accommodation of the garrison, but merely to seek advice or convoy for their own accommodation in the ulterior objects of their voyage. In disturbing their course to Gibraltar, therefore, no real detriment results to the enemy of Spain, whilst a heavy one is committed on her friends. To this consideration it may be added, that the real object of a blockade is to subject the enemy to privations, which may co-operate with external force in compelling them to surrender—an object which cannot be alleged in a case where it is well known that Great Britain can and does, at all times, by her command of the sea, secure to the garrison at Gibraltar every supply which it wants.

6. It is observable, that the blockade of Gibraltar is rested by the proclamation on two considerations: one, that it is necessary to prevent illicit traffic, by means of neutral vessels, between Spanish subjects and the garrison there; the other, that it is a just reprisal on Great Britain for the proceedings of her naval armaments against Cadiz and St. Lucar. The first can surely have no weight with neutrals, but on a supposition, never to be allowed, that the resort to Gibraltar, under actual circumstances, is an indulgence from Spain, not a right of their own; the other consideration, without examining the analogy between the cases referred to and that of Gibraltar, is equally without weight with the United States, against whom no right can accrue to Spain from its complaints against Great Britain, unless it could be shown that the United States were in an unlawful collusion with the latter—a charge which they well know that Spain is too just and too candid to insinuate. It cannot even be said that the United States have acquiesced in the depredations committed by Great Britain, under whatever pretexts, on their lawful commerce. Had this, indeed, been the case, the acquiescence ought to be regarded as a sacrifice made by prudence to a love of peace, of which all nations furnish occasional examples, and as involving a question between the United States and Great Britain, of which no other nation could take advantage against the former. But it may be truly affirmed, that no such acquiescence has taken place. The United States have sought redress for injuries from Great Britain, as well as from other nations. They have sought it by the means which appeared to themselves, the only rightful judges, to be best suited to their object; and it is equally certain that redress has in some measure been obtained, and that the pursuit of complete redress is by no means abandoned.

7. Were it admitted that the circumstances of Gibraltar, in February, 1800, the date of the Spanish proclamation, amounted to a real blockade, and that the proclamation was therefore obligatory on neutrals; and were it also admitted that the present circumstances of that place amount to a real blockade, (neither of which can be admitted,) still the conduct of the Algeiras cruisers is altogether illegal and unwarrantable. It is illegal and unwarrantable, because the force

of the proclamation must have expired whenever the blockade was actually raised, as must have been unquestionably the case since the date of the proclamation; particularly and notoriously, when the port of Algeiras itself was lately entered and attacked by a British fleet; and because, on a renewal of the blockade, either a new proclamation ought to have issued, or the vessels making for Gibraltar ought to have been premonished of their danger, and permitted to change their course as they might think proper. Among the abuses committed under the pretext of war, none seem to have been carried to greater extravagance, or to threaten greater mischief to neutral commerce, than the attempts to substitute fictitious blockades by proclamation, for real blockades formed according to the law of nations; and, consequently, none against which it is more necessary for neutral nations to remonstrate effectually, before the innovations acquire maturity and authority, from repetitions on one side, and silent acquiescence on the other.

[Referred to in the letter of the Secretary of State, of October 19, 1810.]

Mr. Smith, Secretary of the Navy, to Commodore Preble.

Navy Department, Feb. 4, 1804.

SIR: Your letter of the 12th November, enclosing your circular notification of the blockade of the port of Tripoli, I have received.

Sensible, as you must be, that it is the interest, as well as the disposition, of the United States to maintain the rights of neutral nations, you will, I trust, cautiously avoid whatever may appear to you to be incompatible with those rights. It is, however, deemed necessary, and I am charged by the President to state to you what, in his opinion, characterizes a blockade. I have, therefore, to inform you, that the trade of a neutral, in articles not contraband, cannot be rightfully obstructed to any port not actually blockaded by a force so disposed before it, as to create an evident danger of entering it. Whenever, therefore, you shall have thus formed a blockade of the port of Tripoli, you will have a right to prevent any vessel from entering it, and to capture for adjudication any vessel that shall attempt to enter the same, with a knowledge of the existence of the blockade. You will, however, not take as prize any vessel attempting to enter the port of Tripoli without such knowledge; but in every case of an attempt to enter, without a previous knowledge of the existence of the blockade, you will give the commanding officer of such vessel notice of such blockade, and forewarn him from entering; and if, after such a notification, such vessel should again attempt to enter the same port, you will be justifiable in sending her into port for adjudication. You will, sir, hence perceive, that you are to consider your circular communication to the neutral Powers, not as an evidence that every person attempting to enter has previous knowledge of the blockade, but merely as a friendly notification to them of the blockade, in order that they might make the necessary arrangements for

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the discontinuance of all commerce with such blockaded port. I have the honor to be, &c.

ROBERT SMITH.

Extracts—Mr. Smith to Mr. Pinkney.

NOVEMBER 2, 1810.

With the duplicate of my letter to you of the 19th ultimo, I now send to you a copy of the President's proclamation, founded on the repeal of the Berlin and Milan decrees. Enclosed you will also receive a copy of my letter to General Armstrong of this day, which will afford you a view of the reservations and understanding under which this proclamation has been issued.

To the copy of the proclamation herewith transmitted, in relation to West Florida, and to my letter to General Armstrong, touching the same, I refer you for information, as to the views of this Government in taking possession of that country, and as to the considerations which had constrained the President, at this juncture, to resort to this measure.

This despatch will be delivered to you by one of the officers of the United States' frigate *Essex*, who will have orders to return to his ship as soon as he shall have received such letters as you may deem it necessary to transmit to this Department

Mr. Pinkney to Mr. Smith.

LONDON, November 5, 1810.

SIR: I have presented a second note, of which a copy is enclosed, to Lord Wellesley, on the subject of the Orders in Council, under an impression that the state of the King's health (for which I beg to refer you to the paper herewith transmitted) did not render it improper, and that, if it was not improper on that account, it was indispensable on every other.

The day had gone by when the Berlin and Milan decrees were to cease to operate, according to the communication made by the Government of France to the American Minister at Paris, and published in the official journal of that Government; and yet no step whatever had been taken, or apparently thought of, towards the revocation of the British orders. I had received no explanation of the reasons of this backwardness, and no such assurance, looking to the future, as could justify an opinion that it would not continue. Lord Wellesley's letter of the 31st of August, which I had left unanswered till after the 1st of November, that I might stand on the strongest possible ground when I did answer it, made no profession of being a present measure, and (though, from obvious motives, I have not so represented it in my note to him of the 3d instant,) was vague and equivocal as a prospective pledge. It defined nothing, and was so far from warranting any specific expectation, that it seemed rather to take away the very little of precision which belonged to former declarations on the same point. It was highly important to the commerce of the United States, that this ambiguity should be cleared away, with all practicable ex-

pedition, and, if it could not be removed, that no presumption should be afforded of a disposition, on the part of the United States, to acquiesce in it. My note to Lord Wellesley was written and delivered upon those inducements.

In the King's actual situation, the Orders in Council can scarcely be formally recalled, even if the Cabinet are so inclined; but it does not follow that something may not be done (though I have no reason to think that anything will be done) which may be productive of immediate advantage, and, at any rate, prepare the way for the desired repeal.

I have the honor to be, &c.

WILLIAM PINKNEY.

P. S. This letter is written in great haste, that I may send it to Liverpool by this evening's mail.

W. P.

[Referred to in Mr. Pinkney's despatch of Nov. 5.]

Mr Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

November 3, 1810.

MY LORD: In my note of the 25th August, I had the honor to state to your Lordship that I had received, from the Minister Plenipotentiary of the United States at Paris, a letter, dated the 6th of that month, in which he informed me that he had received from the French Government a written and official notice that it had revoked the decrees of Berlin and Milan, and that, after the 1st of November, those decrees would cease to have any effect; and I expressed my confidence that the revocation of the British Orders in Council of January and November, 1807, and April, 1809, and of all other orders dependent upon, analogous to, or in execution of them, would follow of course.

Your Lordship's reply, of the 31st of August, to that note, repeated a declaration of the British Minister in America, made, as it appears, to the Government of the United States in February, 1808, of "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary;" and added an official assurance that "whenever the repeal of the French decrees, should have actually taken effect, and the commerce of the neutral nations should have been restored to the condition in which it stood previously to the promulgation of those decrees, His Majesty would feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt."

Without departing in any degree from my first opinion, that the United States had a right to expect, upon every principle of justice, that the prospective revocation of the French decrees would be immediately followed by at least a like revocation of the orders of England, I must remind your Lordship, that the day has now passed when the repeal of the Berlin and Milan edicts,

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as communicated to your Lordship in the note above-mentioned, and published to the whole world by the Government of France in the *Moniteur* of the 9th of September, was, by the terms of it to take effect. That it has taken effect cannot be doubted, and it can as little be questioned that, according to the repeated pledges given by the British Government on this point, (to say nothing of various other powerful considerations,) the prompt relinquishment of the system to which your Lordship's reply to my note of the 25th of August alludes, is indispensable.

I need scarcely mention how important it is to the trade of the United States, that the Government of Great Britain should lose no time in disclosing, with frankness and precision, its intentions on this head. Intelligence of the French repeal has reached America, and commercial expeditions have, doubtless, been founded upon it. It will have been taken for granted that the British obstructions to those expeditions, having thus lost the support, which, however, insufficient in itself, was the only one that could ever be claimed for them, have been withdrawn; and that the seas are once more restored to the dominion of law and justice.

I persuade myself that this confidence will be substantially justified by the event, and that to the speedy recall of such Orders in Council as were subsequent in date to the decrees of France, will be added the annulment of the antecedent order, to which my late letter respecting blockades particularly relates. But if, notwithstanding the circumstances which invite to such a course, the British Government shall have determined not to remove those obstructions with all practicable promptitude, I trust that my Government will be apprized, with as little delay as possible, of a determination so unexpected, and of such vital concern to its rights and interests; and that the reasons upon which that determination may have been formed will not be withheld from it.

I have the honor to be, &c.

WILLIAM PINKNEY.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, November 7, 1810.

I enclose a duplicate of my letter of the 5th instant, in which was transmitted a copy of my note to Lord Wellesley of the 3d, concerning the Orders in Council.

I have little more to say, in addition to what is contained in that letter, than that it is my intention, in case Lord Wellesley gives me an unfavorable answer to it, to enter at large into the whole subject in my rejoinder; and, in case he delays improperly his reply, to take as strong notice of that impropriety as I can.

As soon as the King recovers, I mean to mention again the subject of a Minister Plenipotentiary to the United States, (which Lord Wellesley, notwithstanding his written and verbal pledges, seems to have quite forgotten,) and if satisfactory assurances are not renewed and acted

upon, to announce my determination to return to America, and to leave a *Chargé d'Affaires*; in the choice of whom, however, I shall have considerable difficulty, unless you should furnish me in season with the expected Secretary of Legation. I presume that, in taking this course, I shall fulfil the wishes of the President, and I can assure you, with great truth, that I shall consult by it my own inclinations.

Mr Pinkney to Mr. Smith.

LONDON, November 14, 1810.

SIR: I have finally determined not to mention again to Lord Wellesley (as I had thoughts of doing) the subject of a Plenipotentiary successor to Mr. Jackson. I think, upon reflection, (and shall act accordingly,) that I ought, after what has passed, to leave him, without further inquiry or notice on my part, to shape his course upon it; and that, if an appointment should not be made as soon as the King's health (which would seem to be improving) will permit, I ought at once to send in an official note, announcing my resolution to return to America, and to leave some suitable person as a *Chargé d'Affaires*.

My letter of the 23d of July informed you that, after Lord Wellesley's written assurance of the 22d of that month, (which was in conformity, as far as it went, with his assurances in conversation,) "that it was his intention immediately to recommend the appointment of an Envoy Extraordinary and a Minister Plenipotentiary from the King to the United States," I did not think myself authorized to take the step which the instructions contained in your letter of the 23d of May, in certain circumstances, prescribed.

My opinion was, that whether the prospect, which then existed, of bringing to a conclusion the affair of the Chesapeake, were taken into the account or not, it was my obvious duty to remain at my post, most irksome as it was every day becoming, until it should incontestably appear that those assurances were not to be relied upon.

Before a sufficient time had elapsed to warrant so harsh a conclusion, I received from Lord Wellesley, on the 28th of August, a further casual intimation (reported to you in my letter of the 29th of the same month) that his recommendation of a Minister would, as he believed, be made in the course of that week or the next.

In the meantime the repeal, by the Government of France, of the Berlin and Milan decrees had produced a posture of affairs which, whatever might be Lord Wellesley's forgetfulness of his own declarations, or the inattention of his Government to what he might advise in consequence of them, rendered my stay in England for two or three months longer indispensable.

In fine, the effect of that consideration had not ceased, when the illness of the King made it impossible that I should depart.

Upon the King's recovery, I shall have every motive for bringing this matter to an issue, and none for the least hesitation or reserve upon it. Several months will have been allowed for the

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performance of an act which might have been completed in as many weeks.

I shall have done everything in my power on the subjects connected with the revocation of the French edicts. And the British Government will be in a situation to admit of such proceedings on its own part, and on mine, as the occasion will require.

From Lord Wellesley's intimation to me on the 28th of August, (mentioned above,) it is perfectly clear that he had not then executed the intention so positively announced in his note of the 22d of July. Five or six weeks had passed, and that which he had both said and written he meant to do immediately, he was not yet sure that he meant to do within another fortnight. The presumption seems, nevertheless, to be quite unnatural, that Lord Wellesley continued, up to the commencement of the King's malady, to be negligent of a pledge, which he chose to rest not merely on his official but his personal character—a pledge, of which he knew I could neither question the sufficiency nor doubt the sincerity, and by which, as he also knew, my conduct on an extremely delicate point of duty was wholly determined.

On the other hand, if Lord Wellesley has been mindful of his pledge, and has recommended a Minister in compliance with it, how has it happened (how can it have happened) that this recommendation has not been followed by an appointment?

In the midst of all this doubt, which Lord Wellesley might dissipate if he pleased, by an explanation apparently necessary for his own sake, there is, I believe, no uncertainty as to the course which, in the actual state of my instructions, (or on the score of general propriety,) I ought to pursue; especially as I must infer from your silence since the arrival of Mr. Morier at Washington, (if I had no other reason for that inference,) that no such communication was made, either by or through that gentleman to you, as ought, in the judgment of the President, to have any influence upon my conduct on this occasion.

I have the honor to be, &c.

WILLIAM PINKNEY.

P. S. November 15. I hear nothing from Lord Wellesley, and not much from any other quarter, concerning the Orders in Council. I have not lately sought any interview with him on that or any other occasion. It is impossible for me to look back upon the past, and to place much value upon conferences.

I am particularly anxious to get from Lord Wellesley, in case the British Government persists in declining to repeal the orders, a distinct statement in writing of the motives of its conduct.

Thus far I have taken for granted the manifest and incontrovertible justice of our expectations; believing that there could, in the first instance, be no sufficient inducement for anticipating difficulties and objections in so plain a case; that, if any existed, they ought to be, and would

be, avowed; and that, when avowed, I could meet them with more advantage than while they were only conjectured. Should, however, a studious ambiguity continue to be preserved on a subject, which now touches more nearly than ever (in my opinion vitally) the character and rights of our country, I shall very soon think myself called upon to suppose for this Government reasons which it will not declare, and to examine them with fulness and freedom in a letter to Lord Wellesley. It is unnecessary, in the mean time, to trouble you with the view which that letter will contain. I have not lately received anything from France which enables me to put the repeal of the French decrees in a stronger light than could otherwise be done. Mr. Russell has written me two letters; the first dated the 26th of September, and received on the 3d of October; the other dated the 10th of October, and received the 13th of November. This last enclosed a letter to me from General Armstrong of the 29th of September. He had written me a short note from Paris, dated the 13th of September, (but not received till long afterwards,) which enclosed a copy of the French Minister's letter to him of the 12th of that month, already received from Mr. Russell in his letter of the 26th of September.

Such use as could be made of these different communications I have made. Of course it could be very little. A *Moniteur* of the 9th of September, containing the Duke of Cadore's letter of the 5th of August to General Armstrong, (which I got through a private channel,) is much more likely to be of service (if anything can be of service) here, where that journal is considered as equivalent to the London Gazette; and I have accordingly referred to it in my note to Lord Wellesley of the 3d instant.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

November 15, 1810.

SIR: From a review of the conduct of the British Government in relation to a Plenipotentiary successor to Mr. Jackson, as presented in your several communications, including even those brought by the *Hornet*, at which date and on which inviting occasion the subject does not appear to have been within the attention of the Government, the President thinks it improper that the United States should continue to be represented at London by a Minister Plenipotentiary. In case, therefore, no appointment of a successor to Mr. Jackson of that grade should have taken place at the receipt of this letter, you will consider your functions as suspended, and you will accordingly take your leave of *absence*, charging a fit person with the affairs of the Legation.

Considering the season at which this instruction may have its effect, and the possibility of a satisfactory change in the posture of our relations with Great Britain, the time of your return to the United States is left to your discretion and convenience. I have the honor, &c.

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Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, Nov. 19, 1810.

My third letter to Lord Wellesley concerning the French decrees and the British Orders in Council, will be presented much sooner than I had at first intended. I shall, I think, present it in a few days. Upon the other subject of my letter to you of the 14th instant, I need not add anything to what is there said upon it.

Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, Nov. 21, 1810.

An American vessel (the *Fox*) has, within a few days past, been brought into Plymouth as prize to a King's ship (the *Amethyst*) for an imputed attempt to go to Cherbourg, in France, in violation of the unrepealed British orders. I have requested that the case may be represented in proper form to me, and I mean to use it as the best ground for my intended letter to Lord Wellesley.

Extract of a letter from William Pinkney, Esq., Minister Plenipotentiary of the United States in London, to the Secretary of State.

LONDON, Dec. 14, 1810.

On the 4th instant I received from Lord Wellesley a note, of which a copy (marked No. 1) is enclosed, respecting the repeal of the French decrees. The conference to which it invited me took place on the 5th; and in the course of it I explained to him at considerable length my view of that subject, and of the points immediately connected with it. Lord Wellesley heard me in his usual manner, but confined himself to such general remarks and professions as I need not repeat to you. He proposed that our conference should be renewed on the 7th, and engaged in the mean time to report to his colleagues what I had said, and at our next interview to make me acquainted with the result.

He introduced, of his own accord, the two subjects of a Minister Plenipotentiary and the Chesapeake.

On the first, he professed to entertain the same disposition and intention as heretofore; and declared that the delay which had taken place arose altogether from some obstacles of a personal nature to obtaining the services of the person whom he particularly wished to send to America; that he hoped these obstacles would soon be removed; that he had another person in view if it should be otherwise; that he had not supposed that delay could be considered as of any moment by my Government, after the assurance contained in his note to me in July last; that these temporary inequalities were common, and, when not meant to be offensive, were never held to be so, &c.

On the second, he informed me that he had not sent me a paper which he had prepared upon it, because he thought it would be well that the new Minister should carry out the adjustment, and,

consequently, that it should be postponed until he was appointed. He repeated that we should have no difficulties upon it. I give you these verbal explanations as I received them.

On the 6th instant I received from Lord Wellesley another note, of which a copy (marked No. 2) is enclosed, requesting me to recapitulate in writing my verbal communication of the 5th. With this request I complied, as you will perceive by the enclosed copy (marked No. 3) of my letter to him of the 10th.

I could have no motive for going to him on the 7th, and had therefore no interview with him on that day.

As the case of the *Fox* was rather pressing, and I was not sure that I could prepare my letter on the general subject in season, I sent in a separate note upon it on the 8th. A copy of that note (marked No. 4) is enclosed. I have no reply to it, and did not expect one; but I understand that the cause has been, and will be, postponed.

A newspaper copy of the President's proclamation of the 2d of November arrived in London on the 11th instant, and produced a good deal of sensation. It gave me pleasure to find my letter to Lord Wellesley so supported. I hope soon to receive an official communication of it.

What will be done here on the affair of the Orders in Council, &c., I cannot yet say. The general impression seems to be that they will do nothing. My letter to Lord Wellesley was written (as my verbal communication had been given) under a persuasion that they will do nothing if they can help it. A very firm tone ought now to be assumed with this Government.

No. 1.

FOREIGN OFFICE, Dec. 4, 1810.

SIR: After the most accurate inquiry, I have not been able to obtain any authentic intelligence of the actual repeal of the French decrees, to which your notes of the 25th of August and 3d of November refer, or of the restoration of the commerce of neutral nations to the condition in which it stood previously to the promulgation of those decrees.

If you should be in possession of any such information, I should be happy to receive it from you, and for that purpose I request to have the honor of a conference with you at this office tomorrow, at two o'clock.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq.

No. 2.

FOREIGN OFFICE, Dec. 6, 1810.

SIR: The importance of the verbal communication which I had the honor of receiving from you yesterday induces me to request that you will have the goodness to commit the substance of it to writing at the earliest time which may suit your convenience.

As soon as I shall have received such a written

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statement from you, I shall be anxious to return an official reply in the same form.

Under these circumstances, it may, perhaps, be unnecessary that you should take the trouble of calling at this office to-morrow.

If, however, you should be desirous of seeing me, I shall have the honor of receiving you between two and three o'clock.

I have the honor to be, &c.

WM. PINKNEY, Esq.

WELLESLEY.

No. 4.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

December 8, 1810.

MY LORD: I have the honor to represent to you that an American vessel, (the *Fox*), proceeding with an American cargo, from a port of the United States to Cherbourg, in France, in the confidence that the repeal of the decrees of Berlin and Milan had, in conformity with repeated pledges and the obvious demands of justice, been followed by the revocation of the British Orders in Council, has been captured since the first of last month, by an English frigate, for an alleged breach of these orders, and brought into Plymouth, and since proceeded against in the High Court of Admiralty as prize of war.

It is my duty to require that this vessel and her cargo may be restored as speedily as possible to their rightful owner, that she may be left at full liberty to resume the lawful voyage in which she was engaged, and that effectual measures may be adopted, with as little delay as circumstances will permit, for the prevention of similar interruptions in future.

I understand that the captors, in this case, are likely to be urgent for condemnation; and that the Orders in Council will, if unrepealed, be considered by the court as imposing upon it a necessity to pronounce such a sentence. I am further informed that the cause may be heard, if the captors press it, on, or very soon after, Tuesday next. I trust, however, that the necessary steps will be taken by the British Government for preventing the signal injustice and the many embarrassments that could not fail to result from such an adjudication.

I have the honor to be, &c.

WM. PINKNEY.

No. 3.

Copy of a letter from Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

December 10, 1810.

MY LORD: In compliance with the request contained in your note of the 6th instant, I proceed to recapitulate in this letter (with some variations, however,) the statements and remarks which I had the honor to make in our conference of the 5th, respecting the revocation of the French decrees, as connected with a change of system here, on the subject of neutral rights.

Your Lordship need not be told that I should be happy to offer, at a much earlier moment, every explanation in my power on matters of such high concern to the rights and commerce of my country, and the future character of its foreign relations, if I had been made to understand that explanation was desired.

My written communications of August and November were concise, but they were not intended to be insufficient. They furnished evidence which I thought conclusive, and abstained from labored commentary, because I deemed it superfluous. I had taken up an opinion, which I abandoned reluctantly and late, that the British Government would be eager to follow the example of France in recalling, as it had professed to do in promulgating, that extraordinary system of maritime annoyance which, in 1807, presented to neutral trade in almost all its directions the hopeless alternative of inactivity or confiscation; which considered it as a subject to be regulated, like the trade of the United Kingdom, by the statutes of the British Parliament; and undertook to bend and fashion it by every variety of expedient to all the purposes and even the caprices of Great Britain. I had no idea that the remnant of that system, productive of no conceivable advantage to England, and deservedly odious, for its theory and destructive effects to others, could survive the public declaration of France that the edicts of Berlin and Milan were revoked. Instructed at length, by your Lordship's continued silence, and alarmed for the property of my fellow-citizens, now more than ever exposed, by an erroneous confidence, to the ruinous operation of the British orders, I was preparing to support my general representations by detailed remonstrance, when I received the honor of your note of the 4th instant. In the conference which ensued, I troubled your Lordship with a verbal communication, of which the following is nearly the substance:

The doubts which appear to stand in the way of the recall of the British Orders in Council, (under which denomination I include certain orders of blockade of a kindred principle and spirit,) must refer to the manner, or the terms, or the practical effect of the alleged repeal of the decrees of France.

That the manner of the proceeding is satisfactory to the British Government cannot be questioned; since it is precisely that in which its own numerous orders for establishing, modifying, or removing blockades, and other maritime obstructions, are usually proclaimed to neutral States and merchants.

The French repeal was officially notified on the 5th of August, to the Minister Plenipotentiary of the United States at Paris, by the French Minister for Foreign Affairs, as I had the honor to inform your Lordship in my letter of the 25th of the same month, which not only gave the import, but (as the enclosed copy will show) adopted the words of General Armstrong's statement to me of the tenor and effect of that notice.

On the 9th of August the notification to General

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Armstrong was published in the *Moniteur*, the official journal of the French Government, as the act of that Government; and thus became a formal declaration, and a public pledge to all who had an interest in the matter of it.

It would be a waste of time to particularize the numerous instances of analogous practice in England, by which this course is countenanced; but a recent example happens to be before me, and may therefore be mentioned. The partial recall, or modification of the English blockade of the ports and places of Spain from Gijon to the French territory, (itself known to my Government only through a circular notification to me, recited afterwards in the *London Gazette*,) was declared to the American and other Governments in exactly the same mode.

I think it demonstrable that the terms in which the French revocation was announced are just as free from well-founded objection as the manner.

Your Lordship's view of them is entirely unknown to me; but I am not ignorant that there are those in this country who, professing to have examined them with care, and having certainly examined them with jealousy, maintain that the revocation, on the 1st of November, was made to depend, by the obvious meaning of those terms, upon a condition precedent which has not been fulfilled, namely, the revocation by Great Britain of her Orders in Council, including such blockading orders as France complains of as illegal.

If this were even admitted to be so, I am yet to learn upon what grounds of justice the British Government could decline to meet, by a similar act on its part, an advance, thus made to it by its adversary in the face of the world, towards a co-operation in the great work of restoring the liberty of the ocean; so far, at least, as respects the Orders in Council of 1807 and 1809, and such blockades as resemble them. It is not necessary, however, to take this view of the question; for the French revocation turns on no condition precedent, is absolute, precise, and unequivocal.

What construction of the document which declares that revocation might be made by determined suspicion and distrust, I have no wish and am not bound to inquire. Such interpreters would not be satisfied by any form of words, and would be likely to draw the same conclusion from perfect explicitness and studied obscurity. It is enough for me that the fair, and natural, and necessary import of the paper affords no color for the interpretation I am about to examine.

The French declaration "that the decrees of Berlin and Milan are revoked, and that, from the 1st of November they will cease to have any effect," is precision itself. But they are followed by these words; "*Bien entendu qu'en conséquence de cette déclaration les Anglais révoqueront leurs arrêts du conseil, et renonceront aux nouveaux principes de blocus qu'ils ont voulu établir, ou bien que les Etats Unis, conformément à l'acte que vous venez communiquer, feront respecter leurs droits par les Anglais.*"

If these words state any condition they state two; the first depending upon Great Britain, the

last, upon the United States; and as they are put in the disjunctive, it would be extravagant to hold that the non-performance of one of them is equivalent to the non-performance of both. I shall take for granted, therefore, that the argument against my construction of the Duke of Cadore's letter must be moulded into a new form. It must deal with two conditions instead of one, and considering them equally as conditions precedent to be performed (disjunctively) before the day limited for the operative commencement of the French repeal, must maintain that, if neither of them should be performed before that day, the decrees were not to be revoked; and, consequently, that, as neither of them has been so performed, the decrees are still in force.

If this hypothesis of previous conditions, thus reduced to the only shape it can assume, be proved to be unsound, my construction is at once established; since it is only upon that hypothesis that any doubt can be raised, against the exact and perspicuous assurance that the decrees were actually repealed, and that the repeal would become effectual on the 1st of November. This hypothesis is proved to be unsound, by the following consideration:

It has clearly no foundation in the phraseology of the paper, which does not contain a syllable to put any condition before the repeal. The repeal is represented as a step already taken, to have effect on a day specified. Certain consequences are, indeed, declared to be expected from this proceeding; but no day is given, either expressly or by implication, within which they are to happen. It is not said, "*bien entendu que les Anglais auront révoqué,*" &c. but "*que les Anglais révoqueront,*" &c. indefinitely as to time.

The notion of conditions precedent is, therefore, to say the least of it, perfectly gratuitous. But it is also absurd. It drives us to the conclusion, that a palpable and notorious impossibility was intended to be prescribed as a condition, in a paper which they, who think it was meant to deceive, must admit was meant to be plausible.

It was a palpable and notorious impossibility, that the United States should, before the 1st of November, execute any condition, no matter what the nature of it, the performance of which was to follow the ascertained failure of a condition to be executed by Great Britain at any time before the same 1st of November. That the act expected from the United States was to be consequent upon the failure of the other, is apparent. It is also apparent, that upon any interpretation which would make the act of Great Britain a condition precedent to the French repeal, and consequently, precedent to the 1st November, (when the repeal was, if ever, to take effect,) that condition could not be said to have failed before the whole period, from the 5th of August to the 1st of November, had elapsed. But if Great Britain had the whole time within which to elect the course which she would pursue, what opportunity would be left to the United States, (equally bound, upon this idea of conditions precedent, to act their part within the same period,)

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to become acquainted with that election, and to decide upon and take their own course in consequence; to say nothing of the transmission of such intelligence of it to Europe, as would be indispensable to the efficacy of the conditional revocation?

This general view would alone be sufficient to discredit the arbitrary construction under consideration. But it will be more completely exposed by an explanation of the nature of the act, which the latter professes to expect from the United States, in case Great Britain should omit to revoke. This act is the revival of the non-intercourse law against England, France remaining exempt from it, as well as from the provisions of the subsequent law, commonly called the non-intercourse act. Now, if it is too plain, upon the face of the last mentioned law (to which the letter expressly refers) to escape the most negligent and unskilful observer, that this revival could not, by any industry or chance, be accomplished before the time fixed for the cessation of the French decrees, or even for a considerable time afterwards, it certainly cannot be allowable to assume, that the revival was required by the letter (whatever was the object of the writer or his Government) to precede the session. And if this was not required, it is incontrovertible that the cessation would, by the terms of the letter, take place on the appointed day, whether any of the events disjunctively specified had intervened or not.

The first step towards a revival of the non-intercourse against England would be the proclamation of the President that France had so revoked or modified her edicts, as that they ceased to violate the neutral commerce of the United States. But the letter of Monsieur Champagny left the decrees as it found them up to the first of November, and, consequently, up to that day it could not, for anything contained in that letter, be said that the rights of American commerce were no longer infringed by them. A prospective proclamation, that they would cease to violate those rights, might, perhaps, be issued; but it could scarcely have any substantial operation, either in favor of France or to the prejudice of England, until the epoch to which it looked had arrived.

Let it be admitted, however, that all physical and legal obstacles to the issuing, before the 1st of November, of a proclamation, to take effect immediately, were out of the way; how would such a proceeding fulfil, of itself, the expectation that the United States would, before the 1st of November, "cause their rights to be respected by the English," in the mode pointed out in the letter, namely, by the enforcement of the non-intercourse law? The proclamation would work no direct or immediate consequence against England. Three months from its date must pass away before the non-intercourse law could revive against her; and when it did so, the revival would not be the effect of the proclamation, but of the continued adherence of England to her obnoxious system. Thus, even if a proclamation, effectual from its date, had been issued by the President on the day when the French declaration of repeal

came to the hands of the American Minister at Paris, the intercourse between the United States and Great Britain would, on the 1st of November, have remained in the same condition in which it was found in August. As all this was well understood by the Government of France, the conclusion is, that its Minister, professing too to have the American law before him, and to expect only what was conformable with that law, did not intend to require the revival of the non-intercourse against England as a condition to be performed before the 1st of November.

It is worthy of remark, as introductory to another view of this subject, that even they who conclude that the repeal of the French decrees has failed, are not backward to ascribe to the French declaration a purpose utterly inconsistent with that conclusion. They suppose the purpose to have been to affect the existing relations between America and England, by the only means which the declaration states, the act of non-intercourse. And it is certain that unless England should abandon particular parts of her system, this was the result avowedly in view, and meant to be accomplished. But there could be no hope of such a result without a previous effectual relinquishment of the French decrees. A case could not otherwise be made to exist (as the Duke of Cadore was aware) for such an operation of the American law. To put the law before the revocation of the edicts was impossible. With the law in his hand, it would have been miraculous ignorance not to know that it was the exact reverse of this which his paper must propose. He would derive this knowledge, not from that particular law only, but from the whole tenor and spirit of American proceedings, in that painful and anomalous dilemma, in which Great Britain and France, agreeing in nothing else, had recently combined to place the maritime interests of America. He would collect from those proceedings that, while those conflicting Powers continued to rival each other in their aggressions upon neutral rights, the Government of the United States would oppose itself impartially to both. The French declaration, then, had either no meaning at all, or it meant to announce to General Armstrong a positive revocation of the French edicts.

I should only fatigue your Lordship by pursuing further a point so plain and simple. I will, therefore, merely add to what I have already said on this branch of the subject, that the strong and unqualified communication from General Armstrong to me, mentioned in the commencement of this letter, and corroborated by subsequent communications (one of which I now lay before you) may, perhaps, without any great effort of courtesy, be allowed to contain that "authentic intelligence" which your Lordship is in search of. He could scarcely have been free from doubt, if the occasion was calculated to suggest it; and if he had really doubted, would hardly have spoken to me with the confidence of conviction.

It only remains to speak of the practical effect of the French repeal. And here your Lordship

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must suffer me to remind you that the orders of England in 1807, did not wait for the practical effect of the Berlin decree, nor linger until the obscurity, in which the meaning of that decree was supposed to be involved, should be cleared away by time or explanation. They came promptly after the decree itself, while it was not only ambiguous but inoperative, and raised upon an idle prohibition, and yet a more idle declaration, which France had not attempted to enforce, and was notoriously incapable of enforcing, a vast scheme of oppression upon the seas, more destructive of all the acknowledged rights of peaceful States than history can parallel. This retaliation, as it was called, was so rapid, that it was felt before the injury was said to have provoked it; and yet, that injury, such as it was, was preceded by the practical assertion, on the part of Great Britain, of new and alarming principles of public law, in the notification of the blockade of May, 1806, and in the judicial decisions of the year before. To uphold the retaliatory orders, everything was presumed with a surprising facility. Not only was an impotent, unexecuted, and equivocal menace presumed to be an active scourge of the commerce of neutral nations, but the acquiescence of those nations was presumed, against the plainest evidence of facts.

The alacrity with which all this was done can never be remembered without regret and astonishment; but our regret and astonishment must increase, if, after four years have been given to the pernicious innovation which these presumptions were to introduce and support, something like the same alacrity should not be displayed in seizing an honorable opportunity of discarding it forever.

It is not unnatural to imagine that it will be discarded with pleasure, when it is considered, that, having never been effectual as an instrument of hostility, it cannot now lay claim to those other recommendations for which it may have heretofore been prized. The Orders in Council (of November) have passed through some important changes; but they have been steady, as long as it was possible, to the purpose which first impressed them with a character not to be mistaken.

In their original plan, they comprehended not only France and such allied or dependent Powers as had adopted the edict of Berlin, but such other nations as had merely excluded from their ports the commercial flag of England. This prodigious expansion of the system was far beyond any intelligible standard of retaliation; but it soon appeared that neutrals might be permitted to traffic, under certain restrictions, with all these different nations, provided they would submit with a dependence truly colonial, to carry on their trade through British ports, and to pay such duties as the British Government should think fit to impose, and such charges as British agents and other British subjects might be content to make.

The United States abstained from this traffic, in which they could not embark without dishonor; and in 1809 the system shrank to narrower dimensions, and took the appearance of an absolute

prohibition of all commercial intercourse with France, Holland, and the kingdom of Italy.

The prohibition was absolute in appearance, but not in fact. It had lost something of former exuberance, but nothing of former pliancy, and, in the event, was seen to yield to the demands of one trade while it prevented every other.

Controlled and relaxed and managed by licenses, it did not, after a brief exhibition of Imperial sternness, affect to "distress the enemy" by the occlusion of his ports, when the commerce of England could advantageously find its way to them. At length, however, this convenience seems to be enjoyed no longer, and the Orders in Council may apparently be now considered (if, indeed, they ought not always to have been considered) as affecting England with a loss as heavy as that which they inflict on those whose rights they violate. In such circumstances, if it be too much to except the credulity of 1807, it may yet be hoped, that the evidence of the practical effect of the French repeal need not be very strong to be satisfactory. It is, however, as strong as the nature of such a case will admit, as a few observations will show.

On such an occasion it is no paradox to say, that the want of evidence is itself evidence. That certain decrees are not in force, is proved by the absence of such facts as would appear if they were in force. Every motive which can be conjectured to have led to the repeal of the edicts invites to the full execution of that repeal, and no motive can be imagined for a different course. These considerations are alone conclusive.

But further, it is known that American vessels bound confessedly to England, have, before the 1st of November, been visited by French privateers, and suffered to pass, upon the foundation of the prospective repeal of the decree of Berlin, and the proximity of the day when it would become an actual one.

If there are not even stronger facts to show that the decree of Milan is also withdrawn, your Lordship can be at no loss for the reason. It cannot be proved that an American vessel is practically held by France; nor to be *denationalized* by British visitation, because your cruisers visit only to capture, and compel the vessel visited to terminate her voyage, not in France, but in England. You will not ask for the issue of an experiment which yourselves intercept, nor complain that you have not received evidence, which is not obtained, because you have rendered it impossible. The vessel which formed the subject of my note of the 8th instant, and another more recently seized as prize, would, if they had been suffered, as they ought, to resume their voyages, after having been stopped and examined by English cruisers, have furnished on that point unanswerable proof; and I have reason to know that precise offers have been made to the British Government to put to a practical test the disposition of France in this respect, and that those offers have been refused. Your cruisers, however, have not been able to visit all American vessels bound to France

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and it is understood that such as have arrived have been received with friendship.

I cannot quit this last question without entering my protest against the pretension of the British Government to postpone the justice which it owes to my Government and country, for this tardy investigation of consequences. I am not able to comprehend upon what the pretension rests, nor to what limits the investigation can be subjected. If it were even admitted that France was more emphatically bound to repeal her almost nominal decrees than Great Britain to repeal substantial orders, (which will not be admitted,) what more can reasonably be required by the latter than has been done by the former? The decrees are officially declared by the Government of France to be repealed. They were ineffectual as a material prejudice to England before the declaration, and must be ineffectual since. There is, therefore, nothing of substance for this dilatory inquiry, which, if once begun, may be protracted without end, or at least till the hour for just and prudent decision has passed. But, if there were room to apprehend that the repealed decrees might have some operation in case the Orders in Council were withdrawn, still, as there is no sudden and formidable peril to which Great Britain could be exposed by that operation, there can be no reason for declining to act at once upon the declaration of France, and to leave it to the future to try its sincerity, if that sincerity be suspected.

I have thus disclosed to your Lordship, with that frankness which the times demand, my view of a subject deeply interesting to our respective countries. The part which Great Britain may act on this occasion cannot fail to have important and lasting consequences, and I can only wish that they may be good.

By giving up her Orders in Council and the blockades, to which my letter of the 21st of September relates, she has nothing to lose in character or strength. By adhering to them, she will not only be unjust to others, but unjust to herself.

I have the honor to be, &c.

WM. PINKNEY.

The MARQUIS WELLESLEY.

Mr. Pinkney to the Secretary of State.

LONDON, December 22, 1810.

SIR: I received on the 20th instant, from Liverpool, your letter of the 19th of October, the only one yet received of a date subsequent to the 17th of July.

My letter of the 14th of November will show that I had myself resolved upon the course of proceeding which the last paragraph of your letter indicates. I now wait only for the restoration of the capacity of the Government.

I presume that my note to Lord Wellesley of the 21st of September will be considered as having anticipated such parts of your letter as relate to blockades. No answer of any sort has been given to that note, but I will not fail to take the first occasion to reinforce it, by enlarging on the

considerations to which you allude. In my opinion the subject cannot be too much pressed, nor the importance of it exaggerated. If such blockades are to continue, we shall have got rid of the orders of 1807 and 1809 in vain.

You will perceive that, in my note above-mentioned, I undertook to mention the blockade of the whole island of Zealand, as one of those paper blockades to which the United States objected; that, in my note of the 25th of August, that blockade was comprehended under the general description of such orders as were "analogous to" the Orders in Council of 1807 and 1809; and that in my late note (of the 10th instant,) I have urged the revocation of all the blockades to which my note of the 21st of September related.

I had no instructions to warrant me in representing any other blockade than that of May, 1806, as indispensable in the view of our laws concerning commercial intercourse with Great Britain and France. I have endeavored, however, so to shape my different notes to Lord Wellesley, as that, when taken together, they may be considered to embrace the whole of the paper blockades, for every purpose, or only for particular purposes, as future instructions or convenience might require.

Upon the subject of impressments, I need not say anything, as the affair of the Chesapeake has not been adjusted. For other matters, I refer you to the newspapers.

I have the honor to be, &c.

WM. PINKNEY.

FRANCE.

[The following documents were transmitted to Congress by the President's Messages of December 5, 1810, and January 14, January 31, and February 19, 1811.]

To the House of Representatives of the United States:

I transmit to the House of Representatives copies of the documents referred to in their resolution of the 4th instant.

JAMES MADISON.

JANUARY 14, 1811.

To the Senate and House of

Representatives of the United States:

I lay before Congress a letter from the *Chargé des Affaires* of the United States at Paris to the Secretary of State; and another from the same to the French Minister of Foreign Relations; also two letters from the agent of the American Consul at Bordeaux to the Secretary of State.

JANUARY 31, 1811.

Extract—Mr. Armstrong to Mr. Smith, Secretary of State.

PARIS, January 28, 1810.

M. Champagny stated that the order given, in relation to our ships, &c., in Spain, was a regular consequence of the system declared in his let-

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ter of the 22d August last, and which had been promulgated throughout the United States. "It is obvious," he added, "that His Majesty cannot permit to his allies a commerce which he denies to himself. This would be at once to defeat his system and oppress his subjects, by demanding from them great and useless sacrifices; for, if the system be not strictly observed everywhere, it cannot anywhere produce the effects expected from it. Still," he said, "the property is only sequestered, and becomes a subject of the present negotiation." As our remonstrances have been sufficiently frequent and free, as this was a meeting merely of conciliation, and as the closing remark of the Minister indicated rather the policy of looking forward to our rights than backward on our wrongs, I thought it most prudent to suppress the obvious answers which might have been given to his observations, and which, under other circumstances, should not have been omitted. I accordingly contented myself with expressing a hope that our future intercourse should be a competition only of good offices.

In conformity to the suggestions contained in your letter of the 1st of December, 1809, I demanded whether, if Great Britain revoked her blockades of a date anterior to the decree, commonly called the Berlin decree, His Majesty the Emperor would consent to revoke the said decree? To which the Minister answered, that "the only condition, required for the revocation by His Majesty of the decree of Berlin, will be a previous revocation by the British Government of her blockade of France, or part of France, (such as that from the Elbe to Brest,) of a date anterior to that of the aforesaid decree; and that, if the British Government would then recall the Orders in Council which had occasioned the decree of Milan, that decree should also be annulled." Our interview closed here, and we have had no meeting, either accidental or by rendezvous, since.

Extract of a letter from the same to the same.

PARIS, February 17, 1810.

The note from M. Champagny, a copy of which is enclosed, was received yesterday.

This goes by the way of England, and may not be much later in reaching you than my despatch of the 28th ultimo, which took the same road.

[Enclosed in the preceding despatch.]

PARIS, February 14, 1810.

The undersigned has rendered an account to His Majesty, the Emperor and King, of the conversation he has had with Mr. Armstrong, Minister Plenipotentiary of the United States of America. His Majesty authorizes him to give the following answer.

His Majesty should consider his decrees of Berlin and Milan as violating the principles of eternal justice, if they were not the compelled consequence of the British Orders in Council, and, above all, of those of November, 1807. When England has proclaimed her sovereignty universal, by the pretension of subjecting the universe

to a tax on navigation, and by extending the jurisdiction of her Parliament over the industry of the world, His Majesty thought that it was the duty of all independent nations to defend their sovereignty, and to declare as denationalized (*denationalisés*) those vessels which should range themselves under the domination of England, by recognising the sovereignty which she arrogated over them.

His Majesty distinguishes the search (*la visite*) from the recognition (*reconnaissance*) of the vessel. The recognition has no other end than to ascertain the reality of the flag. The search is an anterior inquest held, although the verity of the flag be ascertained, and of which the result is either the impressment of individuals, or the confiscation of merchandise, or the application of arbitrary laws or regulations.

His Majesty could place no reliance on the proceedings of the United States, who, having no ground of complaint against France, comprised her in their acts of exclusion, and, since the month of May, have forbidden the entrance of their ports to French vessels, under the penalty of confiscation. As soon as His Majesty was informed of this measure, he considered himself bound to order reprisals on American vessels, not only in his territory, but likewise in the countries which are under his influence. In the ports of Holland, of Spain, of Italy, and of Naples, American vessels have been seized, because the Americans have seized French vessels. The Americans cannot hesitate as to the part which they are to take; they ought either to tear to pieces the act of their independence, and to become again, as before the Revolution, the subjects of England, or to take such measures as that their commerce and industry should not be tarified (*tarifés*) by the English, which renders them more dependent than Jamaica, which, at least, has its Assembly of Representatives and its privileges. Men, without just political views, (*sans politique*), without honor, without energy, may allege that payment of the tribute, imposed by England, may be submitted to because it is light; but why will they not perceive that the English will no sooner have obtained the admission of the principle, than they will raise the tariff in such way, that the burden, at first light, becoming insupportable, it will then be necessary to fight for interest, after having refused to fight for honor?

The undersigned avows, with frankness, that France has everything to gain from receiving well the Americans in her ports. Her commercial relations with neutrals are advantageous to her. She is, in no way, jealous of their prosperity. Great, powerful, and rich, she is satisfied when, by her own commerce or by that of neutrals, her exportations give to her agriculture and her fabrics the proper development.

It is now thirty years since the United States of America founded, in the bosom of the new world, an independent country at the price of the blood of so many immortal men who perished on the field of battle, to throw off the leaden yoke of the English monarch. These generous men

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were far from supposing, when they thus sacrificed their blood for the independence of America, that there would so soon be a question whether there should be imposed upon it a yoke more heavy than that which they had thrown off, by subjecting its industry to a tariff of British legislation, and to the Orders in Council of 1807.

If, then, the Minister of America can enter into an engagement that the American vessels will not submit to the Orders in Council of England of November, 1807, nor to any decree of blockade, unless this blockade should be real, the undersigned is authorized to conclude every species of convention tending to renew the Treaty of Commerce with America, and in which all the measures proper to consolidate the commerce and the prosperity of the Americans shall be provided for.

The undersigned has considered it his duty to answer the verbal overtures of the American Minister by a written note, that the President of the United States may the better know the friendly intentions of France towards the United States, and her favorable dispositions to American commerce.

The undersigned prays Mr. Armstrong to accept the assurances of his high consideration.

CHAMPAGNY, *Duc de Cadore.*

Mr. Armstrong to Mr. Smith.

PARIS, *February 18, 1810.*

SIR: I wrote a few lines to you yesterday, announcing the receipt and transmission of a copy of the Duke of Cadore's note to me of the 14th instant.

After much serious reflection, I have thought it best to forbear all notice, at present, of the errors, as well of fact as of argument, which may be found in the introductory part of this note, to take the Minister at his word, to enter at once upon the proposed negotiation, and, for this purpose, to offer to him a projet for renewing the convention of 1800.

This mode will have the advantage of trying the sincerity of the overtures made by him, and, perhaps, of drawing from him the precise terms on which his master will accommodate. If these be such as we ought to accept, we shall have a treaty in which neither our rights nor our wrongs will be forgotten; if otherwise, there will be enough both of time and occasion to do justice to their policy and our own by a free examination of each.

With great respect, &c.

JOHN ARMSTRONG.

Hon. ROBERT SMITH, &c.

Extract—General Armstrong to Mr. Smith.

PARIS, *March 10, 1810.*

I have at length received a verbal message in answer to my note of the 21st ultimo. It was from the Minister of Foreign Relations, and in the following words: "His Majesty has decided to sell the American property seized in Spain

but the money arising therefrom shall remain in depot." This message has given occasion to a letter from me [annexed] in a temper somewhat different from that of the 18th February.

[Referred to in Mr. Armstrong's despatch of March, 10, 1810.]

General Armstrong to the Duke of Cadore.

PARIS, *March 10, 1810.*

SIR: I had yesterday the honor of receiving a verbal message from your Excellency, stating that His Majesty had decided that the American property seized in the ports of Spain should be sold, but that the money arising therefrom should remain in depot.

On receiving this information, two questions suggested themselves:

1st. Whether this decision was, or was not, extended to ships as well as to cargoes? and,

2d. Whether the money arising from the sales which might be made under it, would, or would not, be subject to the issue of the pending negotiation?

The gentleman charged with the delivery of your message not having been instructed to answer these questions, it becomes my duty to present them to your Excellency, and to request a solution of them. Nor is it less a duty on my part to examine the ground on which His Majesty has been pleased to take this decision, which I understand to be that of reprisal, suggested for the first time in the note you did me the honor to write to me on the 14th ultimo. In the fourth paragraph of this note, it is said, that His Majesty could not have calculated on the measures taken by the United States, who, having no grounds of complaint against France, have comprised her in their acts of exclusion, and since the month of May last, have prohibited the entry into their ports of French vessels, by subjecting them to confiscation." It is true that the United States have, since the 20th of May last, forbidden the entry of French vessels into their harbors. And it is also true, that the penalty of confiscation attaches to the violation of this law. But in what respect does this offend France? Will she refuse to use the right of regulating commerce within our own ports? Or will she deny that the law in question is a regulation merely municipal? Examine it both as to object and means. What does it more than forbid American ships from going into the ports of France, and French ships from coming into those of the United States? And why this prohibition? To avoid injury and insult; to escape that lawlessness, which is declared to be a "forced consequence of the decrees of the British Council." If, then, its object be purely defensive, what are its means? Simply a law, previously and generally promulgated, operating solely within the territory of the United States, and punishing alike the infractors of it, whether citizens of the said States, or others. And what is this but the exercise of a right, common to all nations, of excluding, at their will, foreign commerce, and of enforcing that exclusion? Can this be deemed

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a wrong to France? Can this be regarded as a legitimate cause of reprisal on the part of a Power who makes it the first duty of nations to defend their sovereignty, and who even denationalize the ships of those who will not subscribe to the opinion?

But it has been said that "the United States have nothing to complain of against France." Was the capture and condemnation of a ship driven on the shores of France by stress of weather and the perils of the sea, nothing? Was the seizure and sequestration of many cargoes brought to France in ships violating no law and admitted to regular entry at the imperial custom-houses, nothing? Was the violation of our maritime rights, consecrated as they have been by the solemn forms of a public treaty, nothing? In a word, was it nothing that our ships were burnt on the high seas without other offence than that of belonging to the United States, or other apology than was to be found in the enhanced safety of the perpetrators? Surely, if it be the duty of the United States to resent theoretical usurpations of the British orders of November, 1807, it cannot be less their duty to complain of the daily and practical outrages on the part of France. It is indeed true, that were the people of the United States destitute of policy, of honor, and of energy, (as has been insinuated,) they might have adopted a system of discrimination between the two great belligerents. They might have drawn imaginary lines between the first and second aggressor. They might have resented in the one a conduct to which they tamely submitted in the other, and, in this way, have patched up a compromise between honor and interest, equally mean and disgraceful. But such was not the course they pursued: and it is, perhaps, a necessary consequence of the justice of their measures, that they are at this day an independent nation. But I will not press this part of my subject. It would be affrontful to your Excellency, (knowing, as you do, that there are not less than one hundred American ships within His Majesty's possession, or that of his allies,) to multiply proofs that the United States have grounds of complaint against France.

My attention is necessarily called to another part of the same paragraph, which immediately follows the quotation already made. "As soon," says your Excellency, "as His Majesty was informed of this measure, (the non-intercourse law,) it became his duty to retaliate upon the American vessels, not only within his own territories, but also within the countries under his influence. In the ports of Holland, Spain, Italy, and Naples, the American vessels have been seized, because the Americans had seized French vessels."

These remarks divide themselves into the following heads:

1st. The right of His Majesty to seize and confiscate American vessels within his own territories.

2d. The right to do so within the territories of his allies? and

3d. The reason of that right, viz: because Americans had seized French vessels.

The first of these subjects has been already examined, and the second must be decided like the first, since His Majesty's rights within the limits of his ally cannot be greater than within his own. If, then, it has been shown that the non-intercourse law was merely defensive in its object, that it was but intended to guard against that state of violence which unhappily prevailed, that it was restricted in its operation to the territory of the United States, and that it was duly promulgated there and in Europe before execution, it will be almost unnecessary to repeat, that a law of such description cannot authorize a measure of reprisal, equally sudden and silent in its enactment and application, founded on no previous wrong, productive of no previous complaint, and operating beyond the limits of His Majesty's territories, and within those of sovereigns who had even invited the commerce of the United States to their ports.

It is, therefore, the third subject only, the *reason of the right*, which remains to be examined; and with regard to it I may observe, that, if the alleged fact which forms this reason be unfounded, the reason itself fails, and the right with it. In this view of the business, I may be permitted to inquire, when and where any seizure of a French vessel has taken place under the non-intercourse law? and at the same time to express my firm persuasion that no such seizure has been made—a persuasion founded alike on the silence of the Government and of the journals of the country, and still more on the positive declaration of several well-informed and respectable persons, who have left America as late as the 26th December last. My conclusion, therefore, is, that no French vessel having violated the law, no seizure of such vessel has occurred, and that the report which has reached Paris is probably founded on a circumstance altogether unconnected with the non-intercourse law or its operation.

Though far from wishing to prolong this letter, I cannot close it without remarking the great and sudden change wrought in His Majesty's sentiments with regard to the defensive system adopted by the United States.

The law which is now believed to furnish the ground for reprisal, was communicated to His Majesty in June or July last, and certainly did not then excite any suspicion of feeling unfriendly to the American Government. Far from this, its communication was immediately followed by overtures of accommodation, which, though productive of no positive arrangement, did not make matters worse than they found them.

On the 22d of August last I was honored with a full exposition of the views and principles that had governed, and which should continue to govern, His Majesty's policy in relation to the United States, and in this we do not find the slightest trace of complaint against the provisions of the law in question.

At a period later than the 22d of August, an

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American ship, destined to a port of Spain, was captured by a French privateer. An appeal was made to His Majesty's Minister of War, who, having submitted the case, received orders to liberate all American vessels destined to Spanish ports which had not violated the imperial decrees. Another American ship, at a point of time still later than the capture of the preceding, was brought into the port of Bayonne; but, having violated no law of His Majesty, was acquitted by his Council of Prizes; and lastly, in the long conversation I had the honor of holding with your Excellency, on the 25th of January, no idea of reprisal was maintained by you, nor suspected by me; but, on the contrary, in speaking of the seizure of American property in Spain, you expressly declared that it was not a confiscation.

Can proofs be more conclusive; that from the first promulgation of the law down to the 25th of January last, nothing in the nature of reprisal was contemplated by His Majesty?

What circumstance may have since occurred to produce a change in his opinion, I know not; but the confidence I feel in the open and loyal policy of His Majesty altogether excludes the idea that the rule was merely found for the occasion, and made to justify seizures not otherwise justifiable.

I pray your Excellency to accept, &c.

Extracts—Mr. Armstrong to Mr. Smith.

PARIS, April 4, 1810.

After seven weeks' detention in England, the John Adams has at length got back to France. She arrived in the roads of Havre on the 28th ultimo.

I informed M. Champagny, first, that Mr. Pinkney had not been able to send by this conveyance the result of his application to the British Government concerning the blockades of France prior to the Berlin decree; but that he hoped to be able to send it in a few days by another conveyance; and, secondly, that if he (M. Champagny) had anything to communicate which would have the effect of changing the present relations of the two countries, and which he wished to be early known to the Government of the United States, he would do well to let me know it within twenty-four hours, as the messenger would leave Paris within that time. To this message I received from him the following answer: "That for some days past nothing in the nature of business, and unconnected with the marriage of the Emperor, could be transacted; and that for some days to come the same cause of delay would continue to operate; that my letters were still before the Emperor, and that he would seize the first moment to get some decision in relation to them." Thus, you see, everything is yet in air.

General Armstrong to Mr. Smith.

PARIS, April 16, 1810.

SIR: The John Adams being yet detained, I am able to inform you that on the 11th instant

the Emperor directed the sale of all the American vessels taken in the ports of Spain, and that the money arising therefrom should be placed in his *caisse privé*. He has also refused to give up the *Hero*, and has ordered that the case be brought before the Council of Prizes, where condemnation necessarily awaits it. I send a copy of a note upon which this last order was taken, and another relating to our business in Naples; and am, with very high consideration, your most obedient and very humble servant.

JOHN ARMSTRONG.

Hon. Mr. SMITH, &c.

Copy of Mr. Pinkney's letter to General Armstrong, dated

LONDON, March 23, 1810.

DEAR SIR: Although I have detained the corvette much longer than I wished, I am not able to send you the result of my application to this Government concerning the British blockades of France prior to the Berlin decree. I expect to receive it in a very few days, and will immediately forward it to you by Mr. Lee, by the way of Morlaix, for it seems that the French Government will not permit a messenger to land at any other port.

I have the honor to be, &c.

WILLIAM PINKNEY.

His Ex'cy General ARMSTRONG.

Extracts—Mr. Armstrong to Mr. Smith.

PARIS, May 3, 1810.

Mr. Lee arrived here some days ago with two letters from Mr. Pinkney, copies of which, with my answers, are enclosed.

I need scarcely observe how impossible it is for me to make this or any similar statement the groundwork of a new demand for a repeal of the Berlin decree.

[Referred to in Mr. Armstrong's letter of May 3, 1810.]

Mr. Pinkney to Mr. Armstrong.

LONDON, March 27, 1810.

SIR: I had the honor to receive, by Mr. Powell, your letter of the 25th of January. In pursuance of my instructions, I have addressed a letter to the Marquis Wellesley, His Britannic Majesty's principal Secretary of State for Foreign Affairs, inquiring whether any, and, if any, what blockades of France instituted by Great Britain during the present war before the 1st of January, 1807, are understood by this Government to be in force? Lord Wellesley's reply to that letter not being so explicit as I wished, I have written a second letter requesting explanation. In his Lordship's answer to my second letter, I am informed that the blockade notified by Great Britain in May, 1806, (from the Elbe to Brest,) has never been formally withdrawn, but that the restrictions which that blockade established are comprehended under the more extensive restrictions of the Order in Council of the 7th of January, 1807, and that no other blockade of the ports of France was instituted by

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Great Britain between the 16th of May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force.

I have the honor to be, &c.

WILLIAM PINKNEY.

His Ex'cy General ARMSTRONG, &c.

[Referred to in Mr. Armstrong's letter of May 3, 1810.]

Mr. Pinkney to General Armstrong.

LONDON, April 6, 1810.

SIR: I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain a recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806 is virtually at an end, being merged and comprehended in an Order in Council issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, (and of that of Venice,) or at least a précise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon, (if, indeed, they can be obtained at all,) I will not detain Mr. Lee, but I will send you another messenger, (Mr. Craig, of Philadelphia,) in the course of three or four weeks, with the result of my endeavors. In the meantime, such use can be made of my communication of the 7th ultimo as you may deem advisable.

I have the honor to be, &c.

[Referred to in Mr. Armstrong's despatch, May 3, 1810.]

Extract of a letter from General Armstrong to Mr. Pinkney, dated

PARIS, May 2, 1810.

I have received your three letters of the 3d and 27th of March, and 6th of April. Accept my thanks for your friendly attention with regard to the passport, and express to Lord Wellesley the sense I have of his Lordship's politeness, and the pleasure it would give me to make this acknowledgment in person. The doubt with which you begin your letter of the 6th instant is well founded. The explanation you have received is not such as will enable me to demand the performance of the Emperor's promise (communicated to you in my letter of the 25th of January last,) since it (the explanation) not only admits that the British order of blockade of May, 1806, is not formally withdrawn, but that that of the 27th of July, of the same year, is still in force. An argument in the face of these admissions, and founded merely on the operation of an order of ulterior date, and more extensive restriction, must not be hazarded, as it would be not merely useless, but productive of mischief.

Extract—Mr. Armstrong to Mr. Smith.

PARIS, May 24, 1810.

Some circumstances have occurred since the date of my despatch by Mr. Ronaldson, which, from their importance, make a speedy conveyance necessary. These I shall detail as briefly as possible.

1st. On the 14th instant, was published here in the official and other journals, a decree of the Emperor, dated at Rambouillet, on the 23d of March last, directing the seizure and sale of all American vessels which had entered the ports of the Empire, or of its dependencies, since the 20th of May last, &c.

2d. Four commisssoners have been sent to Amsterdam, with orders to take possession of the American property to be found there agreeably to the tenth article of the late treaty between France and Holland; and

3d. Several of our ships and cargoes, with regard to which compromises have been made under the sanction of the Council of Prizes, have been seized again, to satisfy the provisions of the new decree.

[Referred to in Mr. Armstrong's despatch of May 24.]

Translation of a decree issued by the Emperor of the French, at Rambouillet, March 23, 1810.

NAPOLEON, &c.

Considering that the Government of the United States, by an act dated 1st March, 1809, which forbids the entrance of the ports, harbors, and rivers of the said States to all French vessels, orders, 1st. That after the 20th of May following, vessels under the French flag, which shall arrive in the United States, shall be seized and confiscated, as well as their cargoes; 2d. That after the same epoch, no merchandise or produce, the growth or manufacture of France or her colonies, can be imported into the said United States from any port or place whatsoever, under the penalty of seizure, confiscation, and a fine of three times the value of the merchandise; 3d. That American vessels cannot go to any port of France, of her colonies, or dependencies: We have decreed, and do decree, what follows:

ART. 1st. All vessels navigating under the flag of the United States, or possessed in whole or in part, by any citizen or subject of that Power, which, counting from the 20th of May, 1809, have entered or shall enter into the ports of our Empire, of our colonies, or of the countries occupied by our arms, shall be seized, and the product of the sales shall be deposited in the surplus fund (*caisse d'amortissement*.)

There shall be excepted from this regulation the vessels which shall be charged with despatches, or with commissions of the Government of the said States, and who shall not have either cargoes or merchandise on board.

Our Grand Judge, Minister of Justice, and our Minister of Finance, are charged with the execution of our present decree.

NAPOLEON.

The Secretary of State to General Armstrong.

DEPARTMENT OF STATE, June 5, 1810.

SIR: Your letters of the 17th, 18th, and 21st of February, and 10th, 15th, 21st, and 24th of March, with their several enclosures, were received on the 21st of May.

As the "John Adams" is daily expected, and

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as your further communications by her will better enable me to adapt to the actual state of our affairs with the French Government the observations proper to be made in relation to their seizure of our property, and to the letter of the Duke of Cadore of the 14th of February, it is by the President deemed expedient not to make, at this time, any such animadversions. I cannot, however, forbear informing you that a high indignation is felt by the President, as well as by the public, at this act of violence on our property, and at the outrage, both in the language and in the matter of the letter of the Duke of Cadore, so justly portrayed in your note to him of the 10th of March.

The particular object of this letter is to add to my despatches of the 4th and 22d of May another chance of hastening into your hands a copy of the act of Congress of the last session, concerning the commercial intercourse between the United States and Great Britain and France.

In the fourth section of this act, you will perceive a new modification of the authority given to the President. If there be sincerity in the language held at different times by the French Government, and especially in the late overture, to proceed to amicable and just arrangements in case of our refusal to submit to the British Orders in Council, no pretext can be found for longer declining to put an end to the decrees of which the United States have so justly complained. By putting in force, agreeably to the terms of this statute, the non intercourse against Great Britain, the very species of resistance would be made which France has been constantly representing as most efficacious. It may be added, that the form in which the law now presents the overture is as well calculated as the overture itself to gain a favorable attention, inasmuch as it may be regarded by the belligerent first accepting it as a promise to itself, and a threat only to its adversary.

If, however, the arrangement contemplated by the law should be acceptable to the French Government, you will understand it to be the purpose of the President not to proceed in giving it effect, in case the late seizure of the property of the citizens of the United States has been followed by an absolute confiscation, and restoration be finally refused. The only ground short of a preliminary restoration of the property, on which the contemplated arrangement can be made, will be an understanding that the confiscation is reversible, and that it will become immediately the subject of discussion, with a reasonable prospect of justice to our injured citizens.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to Gen. Armstrong.

DEPARTMENT OF STATE, July 2, 1810.

SIR: The enclosed is a copy of a letter of instruction to Mr. Pinkney, bearing the same date with this letter. You will thence perceive, that

if the answer to the British Government to the representation and requisition which our Minister at London may make should be of a satisfactory nature, it will be transmitted to you without delay.

In that case, you will make a proper use of it for obtaining a repeal of the Berlin decree, and you will proceed, concurrently with Mr. Pinkney, in bringing about successive removals by the two Governments of all their predatory edicts.

I avail myself of this occasion to state to you, that it is deemed of great importance that our Ministers at foreign Courts, and especially at Paris and London, should be kept, the one by the other, informed of the state of our affairs at each.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to Gen. Armstrong.

DEPARTMENT OF STATE, July 5, 1810.

SIR: The arrival of the John Adams brought your letters of the 1st, 4th, 7th, and 16th April.

From that of the 16th April, it appears that the seizures of the American property lately made had been followed up by its actual sale, and that the proceeds had been deposited in the Emperor's *caisse priv e*. You have presented in such just colors the enormity of this outrage, that I have only to signify to you that the President entirely approves the step that has been taken by you, and that he does not doubt that it will be followed by you, or the person who may succeed you, with such further interpositions as may be deemed advisable. He instructs you particularly to make the French Government sensible of the deep impression made here by so signal an aggression on the principles of justice and good faith, and to demand every reparation of which the case is susceptible. If it be not the purpose of the French Government to remove every idea of friendly adjustment with the United States, it would seem impossible but that a reconsideration of this violent proceeding must lead to a redress of it, as a preliminary to a general accommodation of the differences between the two countries.

At the date of the last communication from Mr. Pinkney, he had not obtained from the British Government an acceptance of the condition on which the French Government was willing to concur in putting an end to all the edicts of both against our neutral commerce. If he should afterward have succeeded, you will, of course, on receiving information of the fact, immediately claim from the French Government the fulfillment of its promise; and by transmitting the result to Mr. Pinkney, you will co-operate with him in completing the removal of all the illegal obstructions to our commerce.

Among the documents now sent is another copy of the act of Congress repealing the non-intercourse law, but authorizing a renewal of it against Great Britain in case France shall repeal her edicts, and Great Britain refuse to follow the example, and *vice versa*. You have been already

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informed that the President is ready to exercise the power vested in him for such a purpose, as soon as the occasion shall arise. Should the other experiment, in the hands of Mr. Pinkney, have failed, you will make the act of Congress, and the disposition of the President, the subject of a formal communication to the French Government; and it is not easy to conceive any ground, even specious, on which the overture, specified in the act, can be declined.

If the non-intercourse law, in any of its modifications, was objectionable to the Emperor of the French, that law no longer exists.

If he be ready, as has been declared in the letter of the Duke of Cadore of February 14th, to do justice to the United States in the case of a pledge on their part not to submit to the British edicts, the opportunity for making good the declaration is now afforded. Instead of submission, the President is ready, by renewing the non-intercourse against Great Britain to oppose to her Orders in Council a measure, which is of a character that ought to satisfy any reasonable expectation.

If it should be necessary for you to meet the question, whether the non-intercourse will be renewed against Great Britain in case she should not comprehend in the repeal of her edicts her blockades, which are not consistent with the law of nations, you may, should it be found necessary, let it be understood that a repeal of the illegal blockades, of a date prior to the Berlin decree, namely, that of May, 1806, will be included in the condition required of Great Britain; that particular blockade having been avowed to be comprehended in, and of course identified with, the Orders in Council. With respect to blockades, of a subsequent date or not, against France, you will press the reasonableness of leaving them, together with future blockades, not warranted by public law, to be proceeded against by the United States in the manner they may choose to adopt.

As has been heretofore stated to you, a satisfactory provision for restoring the property lately surprised and seized, by the order or at the instance of the French Government, must be combined with a repeal of the French edicts, with a view to a non-intercourse with Great Britain; such a provision being an indispensable evidence of the just purpose of France toward the United States. And you will, moreover, be careful, in arranging such a provision for that particular case of spoiliations, not to weaken the ground on which a redress of others may be justly pursued.

If the act of Congress, which has legalized a free trade with both the belligerents, without guarding against British interruptions of it with France, while France cannot materially interrupt it with Great Britain, be complained of, as leaving the trade on the worst possible footing for France, and on the best possible one for Great Britain, the French Government may be reminded of the other feature of the act, which puts it in their own power to obtain either an interruption of our trade with Great Britain, or a recall of her interruption of it with France.

Among the considerations which belong to this subject, it may be remarked, that it might have been reasonably expected by the United States that a repeal of the French decrees would have resulted from the British Order in Council of April, 1809. This order expressly revoked the preceding orders of November, 1807, heretofore urged by France in justification of her decrees, and was not only different in its extent and in its details, but was essentially different in its policy.

The policy of the orders of 1807 was, by cutting off all commercial supplies, to retort on her enemies the distress which the French decree was intended to inflict on Great Britain.

The policy of the order of April, 1809, if not avowedly, was most certainly to prevent such supplies, by shutting out those only which might flow from neutral sources, in order thereby to favor a surreptitious monopoly to British traders. In order to counteract this policy, it was the manifest interest of France to have favored the rival and cheaper supplies through neutrals; instead of which, she has co-operated with the monopolizing views of Great Britain, by rigorous exclusion of neutrals from her ports. She has, in fact, reversed the operation, originally professed by her decree. Instead of annoying her enemy at the expense of a friend, she annoys a friend for the benefit of her enemy.

If the French Government should accede to the overture contained in the act of Congress, by repealing or so modifying its decrees as that they will cease to violate our neutral rights, you will, if necessary, transmit the repeal, properly authenticated, to Mr. Pinkney, by a special messenger, and you will hasten and insure the receipt of it here, by engaging a vessel, if no equivalent conveyance should offer, to bring it directly from France, and by sending several copies to Mr. Pinkney, to be forwarded from British ports.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to Gen. Armstrong.

DEPARTMENT OF STATE, *July 17, 1810.*

SIR: You will herewith receive duplicates of my letters to you of the 20th June, and 2d and 5th of July.

This despatch you will receive from Lieutenant Miller of the Navy, who is to proceed from New York in the sloop of war the *Hornet*. This public vessel has been ordered to England, and to France, not only for the purpose of transmitting despatches to you and to our Minister in London, but for the further purpose of affording you, as well as him, a safe opportunity of conveying to this Department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the Governments of England and France. And, with a view to insure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe after the 1st day of October next. With respect, therefore, to the time

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you will detain Mr. Miller in Paris, you will be influenced by the information which you may receive from him as to the orders he may have from the commanding officer of the Hornet.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Extracts—Mr. Armstrong to Mr. Smith.

PARIS, August 5, 1810.

I had this morning the honor of receiving the enclosed note from the Duke of Cadore, informing me that the Imperial decrees of Berlin and Milan are revoked. I shall communicate this fact as promptly as possible to Mr. Pinkney.

I shall obtain a specific revocation of the decree of the 23d of March last; but it ought to be known to you that this decree has had no operation since my first unofficial communication of the law of the 1st of May.

[Referred to in Mr. Armstrong's letter of August 5.]

The Duke of Cadore to General Armstrong.

PARIS, August 5, 1810.

SIR: I have laid before His Majesty, the Emperor and King, the act of Congress of the 1st of May, taken from the Gazette of the United States, which you have sent to me.

His Majesty could have wished that this act, and all the other acts of the Government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them indirectly, and after a long interval of time. There have resulted from this delay serious inconveniences, which would not have existed if these acts had been promptly and officially communicated.

The Emperor had applauded the general embargo laid by the United States on all their vessels, because that measure, if it has been prejudicial to France, had in it at least nothing offensive to her honor. It has caused her to lose her colonies of Martinique, Guadeloupe, and Cayenne; the Emperor has not complained of it. He has made this sacrifice to the principle which had determined the Americans to lay the embargo, inspiring them with the noble resolution of interdicting to themselves the ocean, rather than to submit to the laws of those who wished to make themselves the tyrants (*les dominateurs*) of it.

The act of 1st March has raised the embargo, and substituted for it a measure the most injurious to the interests of France.

This act, of which the Emperor knew nothing until very lately, interdicted to American vessels the commerce of France, at the time it authorized that to Spain, Naples, and Holland, that is to say, to the countries under French influence, and denounced confiscation against all French vessels which should enter the ports of America. Repression was a right, and commanded by the dignity of France, a circumstance on which it was impossible to make a compromise (*de transiger*.) The sequestration of all the American ves-

sels in France, has been the necessary consequence of the measure taken by Congress.

Now Congress retrace their steps, (*revient sur ses pas*;) they revoke the act of the 1st of March; the ports of America are open to French commerce, and France is no longer interdicted to the Americans; in short, Congress engages to oppose itself to that one of the belligerent Powers which should refuse to acknowledge the right of neutrals.

In this new state of things, I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being understood that, in consequence of this declaration, the English shall revoke their Orders in Council, and renounce the new principles of blockade, which they have wished to establish; or that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English.

It is with the most particular satisfaction, sir, that I make known to you this determination of the Emperor. His Majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy.

The independence of America is one of the principal titles of glory to France. Since that epoch, the Emperor is pleased in aggrandizing the United States, and, under all circumstances, that which can contribute to the independence, to the prosperity, and the liberty of the Americans, the Emperor will consider as conformable with the interests of his Empire.

Accept, sir, the assurance of my high consideration,

CHAMPAGNY, Duc de Cadore.

His Exc^y Gen. ARMSTRONG, &c.

General Armstrong to the Duke of Cadore. [No date.]

SIR: The enclosed copy of the law of the United States of the 1st of May last, has been transmitted to me officially by the Secretary of State, and I hasten to lay it before your Excellency. It will supply any want of authenticity which may be found in that already communicated.

In making this second communication of the law, I cannot but recall to your recollection an inference injurious either to my Government, or to myself, which may be drawn from the first paragraph of the letter you did me the honor to write to me on the 5th instant. In this paragraph it is said: "S. M. aurait désiré que cet acte, et tous les autres actes du Gouvernement des États Unis, qui peuvent intéresser la France, lui eussent toujours été notifiés officiellement. En général, elle n'en a eu connaissance qu'indirectement, et après un long intervalle du temps. Il résulte de ce retard des inconvénients grave, qui n'auraient pas lieu, si ces actes étaient promptement et officiellement communiqués." ["His Majesty could have wished, that this act and all the other acts of the Government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them indirectly, and after a long

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interval of time. There have resulted from this delay serious inconveniences, which would not have existed, if these acts had been promptly and officially communicated.”]

From these words it may be inferred, either that the United States have been habitually negligent in transmitting to me such of their acts as concern France, or that I have neglected to perform my duty, in not presenting those acts with sufficient promptitude.

In looking back on the public measures of the United States, which in any way interest France, I find but the following, viz:

1st. An act prohibiting commercial intercourse between the United States and St. Domingo.

2d. An act laying an embargo on the ships or other vessels of the United States.

3d. An act prohibiting all commercial intercourse between the United States and France.

4th. An arrangement made between the Secretary of State of the United States, and the Minister of His Britannic Majesty at Washington; and,

5th. The late act of the 1st of May. Now of these, all have been presented officially; and, making a proper allowance for the remoteness of the United States from France, with sufficient promptitude, excepting the last, which (from causes unknown to me) did not reach Paris until yesterday. Your Excellency can at any time ascertain the correctness of this statement by referring to the archives of your own Department.

I have the honor to be, &c.

JOHN ARMSTRONG.

Extract—Mr. Armstrong to Mr. Smith.

PARIS, Sept. 10, 1810.

Since the date of my last despatch, (by Mr. Jarvis,) nothing has occurred worth communicating, until yesterday, when I received the letter from the Duke of Cadore, of which No. 1 (enclosed) is a copy. By this it will be seen that the decree of Rambouillet is not in operation, and that American ships, entering the ports of France before the 1st of November next, will be judged under the decrees of Berlin and of Milan.

No. 2 is the copy of a note written to Mr. Champagny, with a view of drawing from him something explicit on the point of which it treats. The first of these may appear to have been useless, after the declaration of that Minister, that American ships, which will hereafter arrive in the ports of France, shall not be subject to confiscation; but understanding from the Council of Prizes, that, until some act be taken which had the effect of recalling by name the decree of the 23d March last, they must continue to consider it both as existing and operative, and of course, binding upon them, I hastened to present the subject again, and in a form which leaves no room for misunderstanding.

SEPTEMBER 12.

I have the honor to enclose copies of two letters from the Duke of Cadore, one of which is an an-

swer to my note of the 8th instant. To the question, whether we had anything to expect in reparation for past wrongs? they reply, that their act being of reprisal, the law of reprisal must govern: in other words, that, if you *confiscate French property under the law of non-intercourse, they will confiscate your property under their decree of Rambouillet*. The words underscored are the verbal explanation which accompanied the letter.

I set out this day for Bordeaux, (on my way to the United States,) and hope to begin my voyage from that port on the 1st. October next.

[Referred to in Mr. Armstrong's despatch of Sept. 10, 1810.]

No. 1.

The Duke of Cadore to Mr. Armstrong.

PARIS Sept. 7. 1810.

SIR: You have done me the honor to ask of me, by your letter of the 20th August, what will be the lot of the American vessels which may arrive in France before the 1st of November?

His Majesty has always wished to favor the commerce of the United States. It was not without reluctance that he used reprisal towards the Americans, while he saw that Congress had ordered the confiscation of all French vessels which might arrive in the United States.

It appears that Congress might have spared to His Majesty and his subjects this mortification, (*ce désagrément*) if, in place of that harsh and decisive measure, which left to France no choice, they had used some palliative, such as that of not receiving French vessels, or of sending them away after a delay of so many days.

As soon as His Majesty was informed of this hostile act, he felt that the honor of France, involved in this point, could not be cleansed (*ne pouvait être lavé*) but by a declaration of war, which could not take place but by tedious explanations.

The Emperor contented himself with making reprisals, and, in consequence, he applied to American vessels which came to France, or to the countries occupied by the French armies, word for word, the regulations of the act of Congress.

Since the last measures, by which that hostile act is repealed, His Majesty hastens to cause it to be made known to you, that he anticipates that which may re-establish harmony with the United States and that he repeals his decree of Berlin and Milan, under the conditions pointed out in my letter to you of the 5th August.

During this interval, the American vessels which shall arrive in France will not be subjected to confiscation, because the act of Congress which had served as a motive to our reprisals, is repealed; but these vessels will be subjected to all the effects of the Berlin and Milan decrees; that is to say, they will be treated amicably, if they can be considered as Americans, and hostilely, if they have lost their national character, (*s'ils se sont laissés dénationaliser*) by submitting to the Orders in Council of the British Government.

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I have the honor to renew to you, sir, the assurance of my high consideration.

CHAMPAGNY, *Duc de Cadore.*

His Exc'y Gen. ARMSTRONG, &c.

No. 2.

[Referred to in Mr. Armstrong's despatch of Sept. 10.]

General Armstrong to the Duke of Cadore.

PARIS, Sept. 7, 1810.

SIR: Your Excellency will not think me importunate, if I should employ the last moments of my stay in Paris in seeking an explicit declaration on the following points:

1st. Has the decree of His Majesty of the 23d of March last, enjoining acts of reprisal against the commerce of the United States, on account of their late law of non-intercourse, been recalled?

2d. What will be the operation, on the vessels of the United States, of His Majesty's decrees of July last, forbidding the departure of neutral ships from ports of France, unless provided with imperial licenses? Are these licenses merely substitutes for clearances; or do they prescribe regulations to be observed by the holders of them within the jurisdiction of the United States?

Do they confine the permitted intercourse to two parts only of the said States; and do they enjoin that all shipments be made on French account exclusively?

Is it His Majesty's will, that the seizures made in the ports of Spain, and other places, on the principle of reprisal, shall become a subject of present or future negotiation between the two Governments; or, are the acts already taken by His Majesty to be regarded as conclusive against remuneration?

I need not suggest to your Excellency the interest that both Governments have in the answers that may be given to these questions, and how nearly connected they are with the good understanding which ought to exist between them. After the great step lately taken by His Majesty, towards an accommodation of differences, we are not at liberty to suppose that any new consideration will arise, which shall either retard or prevent the adoption of measures necessary to a full restoration of the commercial intercourse and friendly relations of the two Powers.

I cannot omit expressing, on this occasion, the sense I shall carry with me of the many obligations I am personally under to your Excellency, and of the very high consideration with which I have the honor to be, your most obedient and very humble servant,

JOHN ARMSTRONG.

His Exc'y the DUKE OF CADORE, &c.

[Referred to in Mr. Armstrong's despatch of Sept. 10.]

The Duke of Cadore to Mr. Armstrong.

PARIS, Sept. 12, 1810.

SIR: I have received your letter of the 7th September. That which I wrote to you the same day answered the first of the questions you put to me. I will add to what I have had the honor to write to you, that the decree of the 23d March,

1810, which ordered reprisals, in consequence of the act of Congress of the 1st March, 1809, was repealed, as soon as we were informed of the repeal of the act of non-intercourse passed against France.

On your second question, I hasten to declare to you, that American vessels, loaded with merchandise, the growth of the American provinces, will be received without difficulty in the ports of France, provided they have not suffered their flag to lose its national character, by submitting to the acts of the British Council: they may, in like manner, depart from the ports of France. The Emperor has given licenses to American vessels. It is the only flag which has obtained them. In this His Majesty has intended to give a proof of the respect he loves to show to the Americans. If he is somewhat dissatisfied (*peu satisfaite*) that they have not as yet been able to succeed in causing their flag to be respected, at least he sees with pleasure that they are far from acknowledging the tyrannical principle of English legislation.

The American vessels which may be loaded on account of Frenchmen, or on account of Americans, will be admitted into the ports of France. As to the merchandise confiscated, it having been confiscated as a measure of reprisal, the principles of reprisal must be the law in that affair.

I have the honor to renew to you, sir, the assurance of my high consideration.

CHAMPAGNY, *Duc de Cadore.*

His Exc'y Gen. ARMSTRONG, &c.

General Armstrong to Mr. Pinkney.

BORDEAUX, September 29, 1810.

SIR: Your letter of the 3d instant found me at this place, and on the point of embarking for the United States. I hasten, therefore, to give to it an immediate answer.

There was no error in my representation to you, nor in your representation to Lord Wellesley, of the words, or of the meaning, as I understand it, of the Duke of Cadore's note to me; nor, indeed, do either of these appear to be readily susceptible of mistake. The former, no doubt, retract, in the most positive terms, the Berlin and Milan decrees, and, of course, the principles on which these decrees were founded; and, in doing so, assuredly give us a fair claim on His Britannic Majesty for a fulfilment of the promise made by his Minister Plenipotentiary to our Government the 23d of February, 1808. It would, however appear, by Lord Wellesley's letter to you of the 31st ultimo, that the British Cabinet has given a new version to this promise of His Majesty, and that, as a preliminary to its execution, it is now required, not merely that the principles which had rendered necessary the British system should be retracted, but that the repeal of the French decrees should have actually begun to operate, and the commerce of neutral nations (generally) should have been restored to the condition in which it stood previously to the promulgation of these decrees. It would also appear, from different passages in your letter, that this deviation

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from the original promise of His Majesty grew out of a supposition that the recall of the French decrees implied a contemporaneous cessation of the British Orders in Council of November, 1807; and a repeal before the 1st day of November next of all proclamation blockades of France, &c. &c. Than this construction nothing can, in my opinion, be more erroneous. Were the repeal of the French decrees dependent alone on what Great Britain may do, the supposition would have in it some color of reasonableness; but as the conditions of it present an alternative, one side of which depends, not on the will of His Britannic Majesty at all, but altogether on that of the United States; and which cannot be adopted by them until after the 1st of November next, it necessarily follows that the conditions are not precedent, as has been supposed, but subsequent, as I represent them. This reasoning will receive illustration from a plain and unsophisticated statement of the Duke of Cadore's declaration, viz: that the Berlin and Milan decrees will cease to operate after the 1st day of November next, on one of two conditions; either that Great Britain shall revoke her Orders in Council, so far as they violate the maritime rights of the United States, or that, refusing to do so, the United States shall revive towards her certain sections of their late non-intercourse law, conformably to an act of Congress of the 1st May last. In this we find nothing of a contemporaneous cessation of the French decrees and British Orders in Council, nor that the blockades of France must be recalled before the 1st day of November next; indeed, the very reverse is to be found there; for it contains an express engagement the decrees shall cease, if the United States do a certain act, which all the world knows they cannot do till after that day. These remarks may derive some additional force from the contents of my letter by Mr. Masson, which will, I hope, show that the concessions made by France to the United States are at least sufficiently substantial to invite from Great Britain some measures of a character equally conciliatory, and that, "earnestly desiring to see the commerce of the world restored to that freedom which is necessary to its prosperity," and no more hesitating to follow the good than she has done to follow the bad example of her neighbor and rival, she will go on to declare that her Orders in Council, &c. shall cease after the 1st day of November next, on condition, either that France shall have actually withdrawn her offensive decrees on that day, or that, if she refuse to do so, the United States shall proceed to enforce against her their late non-intercourse law.

In view of the subject, nothing short of this can be considered a sufficient pledge on the part of the British Government, which, unlike that of France, presents no alternative in the conditions on which her Orders in Council shall be repealed, and which, of course, in no way makes that repeal to depend on an act which would be altogether that of the United States. I have, &c.

JOHN ARMSTRONG.

His Exc'y WILLIAM PINKNEY, &c.

Extract of a letter from Mr. Pinkney to Mr. Russell.

OCTOBER 7, 1810.

It may not be amiss to mention that, as it will be obviously prudent, even if it be not absolutely necessary, to furnish me with all such further evidence as can conveniently be gained, confirmation of our expectation that the French repeal of the Berlin and Milan decrees will take effect on the 1st of November, I beg you to transmit me such evidence if —, and as soon as it shall be gained.

It may be yet more important to send me, with as little delay as possible, after the 1st of November, the most decisive proof in your power that the repeal has taken effect, at least an official letter from you to me stating that fact.

Extract—Mr. Smith, Secretary of State, to General Armstrong.

DEPARTMENT OF STATE,

November 2, 1810.

You will herewith receive a printed copy of the proclamation, which, conformably to the act of Congress, has been issued by the President on the revocation of the Berlin and Milan decrees; you will, however, let the French Government understand that this has been done on the ground that the repeal of these decrees does involve an extinguishment of all the edicts of France actually violating our neutral rights, and that the reservations under the expression "it being understood," are not conditions precedent, affecting the operation of the repeal; and on the ground also that the United States are not pledged against the blockades of Great Britain, beyond what is stated in my letter to you of the 5th July. It is to be remarked, moreover, that in issuing the proclamation it has been presumed that the requisition contained in that letter, on the subject of the sequestered property will have been satisfied. This presumption is not only favored by the natural connexion of the policy and justice of a reversal of that sequestration with the repeal of the decrees, but is strengthened by concurrent accounts, through different channels, that such property as has been sequestered has been actually restored.

The enclosed copy of my last letter to Mr. Pinkney of the 12th ultimo, will afford you a distinct view of the line of conduct presented to him in relation to the British orders and blockades.

This despatch will be delivered to you by one of the officers of the United States' frigate Essex, who will have orders to return to his ship as soon as he shall have received such despatches as you may deem it necessary to transmit to this Department.

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE,

November 5, 1810.

SIR: As the ground on which the French Government has deemed it expedient to place the

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revocation of its decrees may suggest to it the further pretext of requiring a restoration of the French property seized here under the non-intercourse law, as a condition to their restoring the American property condemned or sequestered under the French decree of March, you are authorized, in case a restoration can be thus, and not otherwise, obtained, to acquiesce in such an arrangement, and, if necessary, to give to such arrangement a conventional form requiring the sanction of the Senate. You will, however, take care to avoid any expressions implying an acknowledgement, on the part of the United States, that the non-intercourse law, which was not retrospective, has any analogy to the French decree, the injustice of which essentially consists in its retrospective operation. In truth, the arrangement, on the part of the United States, will be little more than nominal, as will appear by the enclosed copy of a letter from the Treasury Department. It may be proper to remark that the third section of the act of May, for the recovery of forfeitures under the non-intercourse law, contemplated violations by our own citizens, rather than French violations, which could not have been of sufficient importance to have called for such a provision, pointing particularly at them.

I have the honor to be, &c.

R. SMITH.

Gen. JOHN ARMSTRONG, &c.

Mr. Russell to the Secretary of State.

PARIS, December 4, 1810.

SIR: This serves merely to cover a copy of my letter to Mr. Pinkney of the 1st of this month; since that time nothing has come to my knowledge to affect the statement which it contains. It is my duty, however, to say that I have not learned the occurrence of any case to which the Berlin and Milan decrees could be applied.

I have the honor to be, &c.

JON. RUSSELL.

Hon. R. SMITH, *Secretary of State.*

[Referred to in Mr. Russell's letter of Dec. 4, 1810.]

Mr. Russell to Mr. Pinkney.

PARIS, December 1, 1810.

SIR: As nothing has transpired here of sufficient importance to be communicated by a special messenger, and as no safe private conveyance has hitherto presented itself, I have delayed, till now, to acknowledge the receipt of your letters under date of the 7th and 28th of October.

No event within my knowledge has occurred, either before or since the 1st of November, to vary the construction given by us to the very positive and precise assurances of the Duke of Cadore on the 5th August, relative to the revocation of the Berlin and Milan decrees. That these decrees have not been executed for an entire month on any vessel arriving during that time in any of the ports of France, may, when connected with the terms in which their revocation was announced, fortify the presumption that they have

ceased to operate. I know, indeed, of no better evidence than this, which the negative character of the case admits, or how the non-existence of an edict can be proved, except by the promulgation of its repeal and its subsequent non-execution.

Our attention here is now turned towards England and the United States. The performance of one of the conditions on which the revocation of the decrees was predicated, and which is essential to render it permanent, is anxiously expected; and it is devoutly to be wished that England, by evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measures which exclusively depend on them.

I need not suggest to you the importance of transmitting hither, as early as possible, any information of a decided character which you may possess relative to this subject, as an impatience is already betrayed here to learn that one or the other of the conditions has been performed.

I am, sir, with great respect, &c.

JON. RUSSELL.

His Exc'y Wm. PINKNEY, Esq.

Jonathan Russell, Esq., *Chargé d'Affaires* of the United States at Paris, to Mr. Smith.

PARIS, December 11, 1810.

SIR: On the evening of the 9th instant, I learned that the Essex frigate had arrived at L'Orient on the 4th, and had been put under quarantine for five days for the want of a bill of health, during which time the messenger is not allowed to come on shore. At the same time that I received this intelligence, I was also informed that brig New Orleans Packet was seized at Bordeaux, under the Berlin and Milan decrees, by the director of the customs at that place. The simultaneous occurrence of these two events formed, in my opinion, a crisis which required a prompt decision of this Government. Under this impression, I immediately addressed to the Duke of Cadore the note of which the enclosed is a copy, and in which I thought it politic to remonstrate with firmness against the proceedings of the direction of the customs at Bordeaux, and to leave the Government here at liberty to disavow them. This disavowal, however, I am persuaded, depends entirely on the nature of the despatches brought by the Essex. I feel, therefore, the most lively anxiety to receive them. In the mean time, I give this letter a chance of reaching you by a vessel about leaving Bordeaux for New York.

Since my last, the Hanseatic towns have been annexed to this Empire.

I have informed Mr. Pinkney of the arrival of the Essex, and suggested to him the possibility that the proclamation of the President had come out by her, in order that he might, if he thought proper, make a final attempt to obtain a repeal of the Orders in Council while it was yet in the power of the British Ministry to do it with a good grace. I have the honor to be, &c.

JONA. RUSSELL.

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[Referred to in Mr. Russell's despatch of December 11, 1810.]

Mr. Russell to the Duke of Cadore.

PARIS, December 10, 1810.

SIR: I have this moment learned that the American brig, the *New Orleans Packet*, lately arrived at Bordeaux, has, with her cargo, the *bona fide* property of citizens of the United States, and laden at the port of New York, been seized by the director of the customs under the Berlin and Milan decrees. I have also been informed that this director of the customs, not satisfied with this hardy violation of the solemn assurances given by your Excellency to General Armstrong on the 5th of August last, and confirmed by your letter to him of the 7th of September, that these decrees were revoked, and would cease to operate from the 1st of November, has, without regard to the plighted faith of his Government, announced his intention of selling the provisions which constitute a part of the cargo, under the pretext that they are perishable. The clear and unequivocal manner in which the revocation of the Berlin and Milan decrees was announced by your Excellency, forbids me for a moment to suppose that the violent proceedings of this man will be sanctioned by His Majesty the Emperor and King, or that the least delay will be allowed, in placing the property thus arrested at the free disposition of the rightful owner, whose confidence alone in the good faith with which it becomes nations to perform their engagements has brought him to the place where he is so inhospitably treated.

I am persuaded that your Excellency will not, on this occasion, attempt to remind me of the conditions on which the revocation of those decrees was predicated. These conditions were in the alternative, and the performance of either is sufficient to render absolute and perpetual that revocation. It is of no importance that the British Orders in Council have not been withdrawn, if the United States, in due time, perform the condition which depends alone on them; and what is this condition? Why, to execute an act of Congress against the English, which, to be thus executed, requires the previous revocation of these very decrees. The letter of your Excellency, of the 5th of August, appears to have been written with a full knowledge of this requisition of the law, and manifestly with the intention to comply with it, in order that it might be competent for the President of the United States to exercise the contingent power which had been given to him.

It will not be pretended that the decrees have, in fact, been revoked, but that the delay of the United States in performing the condition presented to them authorizes their revival. The case of the *New Orleans Packet* is the first which has occurred since the 1st of November, to which the Berlin or Milan decrees could be applied; and if they be applied to this case, it will be difficult for France to show one solitary instance of their having been practically revoked; as to delay

on the part of the United States, there has been none. No official information of the letter of your Excellency of the 5th of August left France for the United States, owing to circumstances which it was not in the power of General Armstrong to control, until the 29th of September; and to this moment I have not learned that such official information has been there received. I might, indeed, have learned it, and been able now to have communicated to your Excellency the measures on which the President has decided in consequence of it, had not the frigate, the *Essex*, despatched by him, been put under quarantine, on her arrival at L'Orient, for the want of a bill of health, and the messenger thereby detained since the 4th of this month. I will not undertake to decide whether a bill of health ought, in courtesy, to be exacted of a frigate of a friendly Power coming in the *winter season* from a place not known to have been lately afflicted with any malignant disease; but surely the delay which this exacting occasions cannot be imputed to a want of due diligence on the part of the American Government.

It is from this view of the subject that I am thoroughly convinced that the application of the Berlin or Milan decree, by the director of the customs at Bordeaux, to the *New Orleans Packet*, will not be approved by His Majesty, but that prompt and efficient measures will be taken to correct a procedure which, if persisted in, might produce a state of things which it is the obvious interest of both nations to avoid.

I pray your Excellency to be assured of my most distinguished consideration.

JON. RUSSELL.

To the DUKE OF CADORE.

[Referred to in Mr. Russell's letter of Dec. 11, 1810.]

Christopher Meyer to Mr. Smith, Secretary of State.

UNITED STATES' CONSULATE,

Bordeaux, Dec. 6, 1810.

SIR: I have the honor to enclose a copy of Mr. Cathalan's letter to me, received this morning, concerning the recapture of the schooner *Grace Anne Greene*, of New York, Daniel Greene, master, who brought her into the port of Marseilles, having two British officers and seven sailors on board, and they only being six men and two boys.

The brig *New Orleans Packet*, of New York with a cargo of provisions and three hundred bags of cocoa on board, bound to the Mediterranean, for a market, went to Gibraltar, and, after lying there some time, came to this port where she has been sequestered.

The schooner *Friendship*, of and from Baltimore, Captain Snow, with a cargo of coffee and Campeachy, arrived five days ago in this river. Whatever the issue may be of these two vessels, I shall have the honor to inform you of it.

I remain, very respectfully, sir, &c.

CHRISTOPHER MEYER.

To the SECRETARY OF STATE, U. S.

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[Referred to in Mr. Russell's letter of Dec. 11, 1810.]

Christopher Meyer to Mr. Smith, Secretary of State.

UNITED STATES' CONSULATE,
Bordeaux, December 14, 1810.

SIR: Annexed is a triplicate of my respects to you of the 6th instant; the brig *Osmin* and the ship *Commodore Rodgers*, by which the original and duplicate went, having not got to sea yet.

The brig *New Orleans Packet*, of New York, Captain *Harris*, mentioned in my former letter, has since been seized by the collector, and her cargo has been put in the imperial custom-house.

The schooner *Friendship*, of and from Baltimore, Captain *Snow*, has been sequestered.

This is accompanied with an account of sundry advances made for the relief of distressed seamen, for this port and the port of Bayonne, with twenty-two vouchers, amounting to 4,934 francs 20 centimes, and for which I have drawn on Jonathan Russell, Esq., our *Chargé d'Affaires* at Paris.

Captain *Skiddy*, of the schooner *Maria Louisa*, bound to New York, has eight distressed seamen on board, and for whom I have paid no passage money, nor have I laid in provision for them.

The ship *Commodore Rodgers*, Captain *Shaler*, from Bayonne, bound to New York, will carry home from fifty to sixty seamen in distress, and for whom I shall have the honor to transmit you a list and an account by my next.

The duty on cocoa has been reduced from 5 francs 50 centimes to 2 francs 75 centimes per pound.

The *Essex* frigate is arrived at L'Orient from the United States.

This is accompanied by a file of newspapers, and which I shall have the honor to continue to send whenever opportunities offer.

I have the honor to be, &c.

CHRISTOPHER MEYER.

ROBERT SMITH, Esq., *Sec'y of State.*

CIRCULAR.

TREASURY DEPARTMENT,

November 2, 1810.

SIR: You will herewith receive a copy of the proclamation of the President of the United States, announcing the revocation of the edicts of France, which violated the neutral commerce of the United States, and that the restrictions, imposed by the act of 1st May last, accordingly cease from this day in relation to France. French armed vessels may, therefore, be admitted into the harbors and waters of the United States, anything in that law to the contrary notwithstanding.

It also follows that, if Great Britain shall not, on the 2d of February next, have revoked or modified in like manner her edicts violating the neutral commerce of the United States, the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the "Act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," shall, in

conformity with the act first abovementioned, be revived and have full force and effect, so far as relates to Great Britain and her dependencies, from and after the said 2d day of February next. Unless, therefore, you shall before that day be officially notified by this department of such revocation or modification, you will, from and after the said day, carry into effect the abovementioned sections, which prohibit both the entrance of British vessels of every description into the harbors and waters of the United States, and the importation into the United States of any articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of Great Britain, and of any articles whatever brought from the said dominions, colonies, and dependencies.

I am, respectfully, sir, your obedient servant.

The COLLECTOR of the District of —.

By the President of the United States of America.

A PROCLAMATION.

Whereas, by the fourth section of the act of Congress, passed on the 1st day of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," it is provided "that, in case either Great Britain or France shall, before the 3d day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation; and if the other nation shall not, within three months thereafter, so revoke or modify her edicts, in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' shall, from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies, and dependencies, and to the articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid."

And whereas it has been officially made known to this Government, that the edicts of France violating the neutral commerce of the United States have been so revoked as to cease to have effect on the 1st of the present month: Now, therefore, I, James Madison, President of the United States, do hereby proclaim that the said edicts of France have been so revoked as that they ceased on the said 1st day of the present month to violate the neutral commerce of the United States; and that, from the date of these presents, all the restrictions imposed by the aforesaid act shall cease and be

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discontinued in relation to France and their dependencies.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand, at the City of Washington, this second day of November, in the year of our Lord one thousand eight hundred and ten, and of the independence of the United States the thirty-fifth.

JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

The Vice Consul at Bordeaux to the Secretary of State.

UNITED STATES' CONSULATE,
BORDEAUX, December 31, 1810.

SIR: I had the honor of addressing you the 14th instant by this opportunity, (the schooner Maria Louisa, Captain Skiddy,) and I have now to enclose a newspaper of yesterday, containing two letters from the French Minister of Justice to the President of the Tribunal of Prizes, and from the Minister of Finance to the Collector General of all the customs in France, concerning American navigation. I have the honor to be, &c.

CH. MEYER,

Vice Consul of the United States.

[Referred to in the preceding letter of Mr. Meyer.]

PARIS, December 26, 1810.

Copy of a letter from His Excellency the Grand Judge, Minister of Justice, to the Counsellor of State, President of the Council of Prizes.

PARIS, December 25, 1810.

MR. PRESIDENT: The Minister of Foreign Relations, by order of His Majesty the Emperor and King, addressed on the 5th of August last to the Plenipotentiary of the United States of America a note containing the following words:

"I am authorized to declare to you that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being well understood that, in consequence of this declaration, the English will revoke their Orders in Council and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act you have just communicated, will cause their rights to be respected by the English."

In consequence of the communication of this note, the President of the United States issued, on the 2d of November, a proclamation to announce the revocation of the decrees of Berlin and Milan, and declared that, in consequence thereof, all the restrictions imposed by the act of the 1st of May must cease with respect to France and her dependencies. On the same day the Treasury Department addressed a circular to all the collectors of the customs of the United States, which enjoins them to admit into the ports and waters of the United States armed French vessels; prescribes to them to apply, after the 2d of February next, to English vessels of every de-

scription, and to productions arising from the soil and industry of the commerce of England and her dependencies, the law which prohibits all commercial relations, if at that period the revocation of the English Orders in Council, and of all the acts violating the neutrality of the United States, should not be announced by the Treasury Department.

In consequence of this engagement, entered into by the Government of the United States, to cause their rights to be respected, His Majesty orders that all the causes that may be pending in the Council of Prizes of captures of American vessels, made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February next, the period at which the United States having fulfilled the engagement to cause their rights to be respected, the said captures shall be declared null by the Council, and the American vessels restored, together with their cargoes, to their proprietors.

Receive, Mr. President, the new assurances of my most distinguished consideration.

THE DUKE OF MASSA.

Copy of a letter from the Minister of Finance to the Count of Sussy, Counsellor of State, Director General of the Customs.

DECEMBER 25, 1810.

On the 5th of last August, the Minister of Foreign Relations wrote to Mr. Armstrong, Minister Plenipotentiary of the United States of America, that the Berlin and Milan decrees were revoked, and that after the first of November they would cease to have effect; it being well understood that, in consequence of this declaration, the English would revoke their Orders in Council, and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act communicated, should cause their rights to be respected by the English.

On the communication of this note, the President of the United States issued, on the 2d of November, a proclamation which announces the revocation of the Berlin and Milan decrees after 1st of November; and which declares that, in consequence thereof, all the restrictions imposed by the act of the 1st of May, 1809, should cease with respect to France and her dependencies.

The same day the Treasury Department addressed to the collectors of the customs a circular, which directs them to admit into the ports and waters of the United States armed French vessels, and enjoins it on them to apply, after the 2d of February next, the law of the 1st of May, 1809, prohibiting all commercial relation to English vessels of every description, as well as to productions of the soil, industry, or commerce of England and her dependencies.

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His Majesty having seen, in these two pieces, the enunciation of the measures which the Americans purpose taking on the 2d of February next, to cause their rights to be respected, has ordered me to inform you that the Berlin and Milan decrees must not be applied to any American vessels that have entered our ports since the 1st of November, or may enter in future; and that those which have been sequestered, as being in contravention of these decrees, must be the object of a special report.

On the 2d of February I shall acquaint you with the intentions of the Emperor with regard to the definitive measures to be taken for distinguishing and favoring the American navigation. I have the honor to salute you.

The Minister of Finance,

THE DUKE OF GAETE.

SPAIN—FLORIDA.

Communicated to Congress by the public Message of December 5, 1810, and the confidential Message of January 3, 1811.

WASHINGTON, January 3, 1811.

To the Senate and House of
Representatives of the United States:

I communicate to Congress, in confidence, a letter of the 2d December from Governor Folch, of West Florida, to the Secretary of State; and another of the same date, from the same, to John McKee.

I communicate in like manner a letter from the British Chargé d'Affaires to the Secretary of State, with the answer of the latter. Although the letter cannot have been written in consequence of any instruction from the British Government, founded on a late order for taking possession of the portion of West Florida well known to be claimed by the United States; although no communication has ever been made by that Government to this of any stipulation with Spain, contemplating an interposition which might so materially affect the United States; and although no call can have been made by Spain in the present instance for the fulfilment of any such subsisting engagement, yet the spirit and scope of the document, with the accredited source from which it proceeds, required that it should not be withheld from the consideration of Congress.

Taking into view the tenor of these several communications, the posture of things with which they are connected, the intimate relation of the country adjoining the United States eastward of the river Perdido to their security and tranquillity, and the peculiar interest they otherwise have in its destiny, I recommend to the consideration of Congress, the seasonableness of a declaration that the United States could not see, without serious inquietude, any part of a neighboring territory, in which they have in different respects so deep and so just a concern, pass from the hands of Spain into those of any other foreign Power.

I recommend to their consideration also the expediency of authorizing the Executive to take temporary possession of any part or parts of the said territory, in pursuance of arrangements which may be desired by the Spanish authorities, and for making provision for the government of the same during such possession.

The wisdom of Congress will, at the same time, determine how far it may be expedient to provide for the event of a subversion of the Spanish authorities within the territory in question, and an apprehended occupancy thereof by any other foreign Power.

JAMES MADISON.

Extract of a letter from Governor Holmes, of the Mississippi Territory, to the Secretary of State, dated

OCTOBER 17, 1810.

The enclosed letter I have been requested to transmit to you.

[Enclosed in Gov. Holmes's letter of October 17, 1810.]

The President of the Convention of Florida to the
Secretary of State.

BATON ROUGE, October 10, 1810.

SIR: The Convention of the State of Florida have already transmitted an official copy of their act of independence, through His Excellency Governor Holmes, to the President of the United States, accompanied with the expression of their hope and desire that this Commonwealth may be immediately acknowledged and protected by the Government of the United States, as an integral part of the American Union. On a subject so interesting to the community represented by us, it is necessary that we should have the most direct and unequivocal assurances of the views and wishes of the American Government without delay, since our weak and unprotected situation will oblige us to look to some foreign Government for support, should it be refused to us by the country which we have considered as our parent State.

We therefore make this direct appeal through you to the President and General Government of the American States, to solicit that immediate protection to which we consider ourselves entitled; and, to obtain a speedy and favorable decision, we offer the following considerations: 1st, The Government of the United States in their instructions to the Envoys Extraordinary at Paris in March, 1806, authorized the purchase of East Florida, directing them at the same time to engage France to intercede with the Cabinet of Spain to relinquish any claim to the territory which now forms this Commonwealth. 2d, In all diplomatic correspondence with American Ministers abroad, the Government of the United States have spoken of West Florida as a part of the Louisiana cession. They have legislated for the country as a part of their own territory, and have deferred to take possession of it, in expectation that Spain might be induced to relinquish her claim by amicable negotiation. 3d, The American Government has already refused to ac-

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credit any Minister from the Spanish Junta, which body was certainly more legally organized as the representative of the sovereignty, than that now called the Regency of Spain. Therefore, the United States cannot but regard any force or authority emanating from them, with an intention to subjugate us, as they would an invasion of their territory by a foreign enemy. 4th, The Emperor of France has invited Spanish Americans to declare their independence rather than remain in subjection to the old Spanish Government: therefore, an acknowledgment of our independence by the United States, could not be complained of by France, or involve the American Government in any contest with that Power. 5th, Neither can it afford any just cause of complaint to Great Britain, although she be the ally of Spain, that the United States should acknowledge and support our independence, as this measure was necessary to save the country from falling into the hands of the French exiles from the island of Cuba, and other partisans of Bonaparte, who are the eternal enemies of Great Britain.

Should the United States be induced by these, or any other considerations, to acknowledge our claim to their protection as an integral part of their territory, or otherwise, we feel it our duty to claim, for our constituents, an immediate admission into the Union as an independent State, or as a Territory of the United States, with permission to establish our own form of Government, or to be united with one of the neighboring Territories, or a part of one of them, in such manner as to form a State. Should it be thought proper to annex us to one of the neighboring Territories, or a part of one of them, the inhabitants of this Commonwealth would prefer being annexed to the island of Orleans; and in the meanwhile, until a State Government should be established, that they should be governed by the ordinances already enacted by this Convention, and by their further regulations hereafter.

The claim which we have to the soil or unlocated lands within this Commonwealth will not, it is presumed, be contested by the United States, as they have tacitly acquiesced in the claim of France or Spain for seven years, and the restrictions of the several embargo and non-intercourse laws might fairly be construed, if not as a relinquishment of their claim, yet at least sufficient to entitle the people of this Commonwealth (who have wrested the Government and country from Spain at the risk of their lives and fortunes) to all the unlocated lands. It will strike the American Government that the moneys arising from the sales of these lands, applied as they will be to improving the internal communications of the country, opening canals, &c. will, in fact, be adding to the prosperity and strength of the Federal Union. To fulfil with good faith our promises and engagements to the inhabitants of this country, it will be our duty to stipulate for an unequalled pardon for all deserters now residing within this Commonwealth, together with an exemption from further service in the army or navy of the United States.

A loan of \$100,000 is solicited of the American Government, to be reimbursed at three, six, and nine years, from the sales of public lands. This loan may be made by the Secretary of the Treasury immediately, without committing the Government, or making it known to foreign Ministers at Washington.

In order not to embarrass the Cabinet of the United States, and to receive first through their own confidential agents their wishes and views with respect to us, it is deemed prudent to defer the departure of our Envoy already named, who will be despatched immediately on receiving information that such a measure will meet the approbation of the United States.

We pray you to accept the assurances of our respect and high consideration.

By order of the Convention:

JOHN RHEA, *President.*

To the Honorable ROBERT SMITH, *Secretary of State for the United States.*

[Transmitted with the letter of Governor Holmes to the Secretary of State, of October 17, 1810.]

The Convention of Florida to His Excellency the Governor of the Mississippi Territory.

BATON ROUGE, *September 26, 1810.*

SIR: We, the delegates of the people of this State, have the honor to enclose to you an official copy of their act of independence, requesting that it may be forthwith transmitted by you to the President of the United States, with the expression of their most confident and ardent hope that it may accord with the policy of the Government, as it does with the safety and happiness of the people of the United States, to take the present Government and people of this State under their immediate and special protection, as an integral and inalienable portion of the United States.

The Convention and their constituents of Florida rest in the firm persuasion that the blood which flows in their veins will remind the Government and the people of the United States, that they are their children; that they have been acknowledged as such by the most solemn acts of the Congress of the United States; and that, so long as independence and the rights of man shall be maintained and cherished by the American Union, the good people of this State cannot, or will not, be abandoned or exposed to the invasion, violence, or force of any foreign or domestic foe.

The Convention beg you to receive for yourself, sir, and to assure the President of their high respect and consideration.

By order of the Convention:

JOHN RHEA, *President.*

[Transmitted with the letter of Governor Holmes to the Secretary of State, of October 17, 1810.]

By the Representatives of the people of West Florida, in Convention assembled:

A DECLARATION.

It is known to the world with how much fidelity the good people of this Territory have profess-

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ed and maintained allegiance to their legitimate Sovereign, while any hope remained of receiving from him protection for their property and lives.

Without making any unnecessary innovation in the established principles of the Government, we had voluntarily adopted certain regulations, in concert with our First Magistrate, for the express purpose of preserving this Territory, and showing our attachment to the Government which had heretofore protected us. This compact, which was entered into with good faith on our part, will forever remain an honorable testimony of our upright intentions and inviolable fidelity to our King and parent country, while so much as a shadow of legitimate authority remained to be exercised over us. We sought only a speedy remedy for such evils as seemed to endanger our existence and prosperity, and were encouraged by our Governor with solemn promises of assistance and co-operation. But those measures which were intended for our preservation he has endeavored to pervert into an engine of destruction, by encouraging, in the most perfidious manner, the violation of ordinances sanctioned and established by himself as the law of the land.

Being thus left without any hope of protection from the mother country, betrayed by a Magistrate whose duty it was to have provided for the safety and tranquillity of the people and Government committed to his charge, and exposed to all the evils of a state of anarchy, which we have so long endeavored to avert, it becomes our duty to provide for our own security, as a free and independent State, absolved from all allegiance to a Government which no longer protects us.

We, therefore, the Representatives aforesaid, appealing to the Supreme Ruler of the world for the rectitude of our intentions, do solemnly publish and declare the several districts composing this Territory of West Florida to be a *free and independent State*; and that they have a right to institute, for themselves, such form of Government as they may think conducive to their safety and happiness; to form treaties; to establish commerce; to provide for their common defence; and to do all acts which may, of right, be done by a sovereign and independent nation; at the same time declaring all acts, within the said Territory of West Florida, after this date, by any tribunal or authorities not deriving their powers from the people, agreeably to the provisions established by this Convention, to be null and void; and calling upon all foreign nations to respect this our declaration, acknowledging our independence, and giving us such aid as may be consistent with the laws and usages of nations.

This Declaration, made in Convention, at the town of Baton Rouge, on the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and ten, we, the Representatives, in the name aforesaid, and on behalf of our constituents, do hereby solemnly pledge ourselves to support with our lives and fortunes.

By order of the Convention:

JOHN RHEA, *Pres't.*

ANDREW STEELE, *Sec'y.*

The Secretary of State to Governor Claiborne.

DEPARTMENT OF STATE,

October 27, 1810.

SIR: From the enclosed proclamation of the President of the United States, you will perceive his determination to take possession of the Territory therein specified, in the name and in behalf of the United States, the considerations which have constrained him to resort to this necessary measure, and his direction that you, as Governor of the Orleans Territory, shall execute the same. Of this proclamation, upon your arrival at Natchez, you will, without delay, cause to be printed as many copies, in the English, French, and Spanish languages, as may be deemed necessary, and you will cause the same to be extensively circulated throughout the said Territory.

You will immediately proceed, by the nearest and best route, to the town of Washington, in the Mississippi Territory. From the Secretary at War you will receive an order to the officers commanding the several frontier posts, to afford you such assistance in passing the wilderness, and in descending the Western waters, as you may require; and, as despatch is very desirable, you are authorized, in case your horses should fail, to procure others at the public expense. After having made, at Washington, the necessary arrangements with Governor Holmes and with the commanding officer of the regular troops, you will, without delay, proceed into the said Territory, and, in virtue of the President's proclamation, take possession of the same, in the name and in behalf of the United States.

As the district, the possession of which you are directed to take, is to be considered as making part of the Territory of Orleans, you will, after taking possession, lose no time in proceeding to organize the militia; to prescribe the bounds of parishes; to establish parish courts; and, finally, to do whatever your legal powers applicable to the case will warrant, and may be calculated to maintain order; to secure to the inhabitants the peaceable enjoyment of their liberty, property, and religion; and to place them, as far as may be, on the same footing with the inhabitants of the other districts under your authority. As far as your powers may be inadequate to these and other other requisite objects, the Legislature of Orleans which it is understood will soon be in session, will have an opportunity of making further provisions for them, more especially for giving, by law, to the inhabitants of the said Territory, a just share in the representation in the General Assembly; it being desirable that the interval of this privation should not be prolonged beyond the unavoidable necessity of the case.

If, contrary to expectation, the occupation of this Territory on the part of the United States should be opposed by force, the commanding officer of the regular troops on the Mississippi will have orders from the Secretary at War to afford you, upon your application, the requisite aid; and should an additional force be deemed necessary, you will draw from the Orleans Territory, as will Governor Holmes from the Mississippi Territory

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militia in such numbers and in such proportions from your respective territories, as you and Governor Holmes may deem proper. Should, however, any particular place, however small, remain in possession of a Spanish force, you will not proceed to employ force against it, but you will make immediate report thereof to this Department.

You will avail yourself of the first favorable opportunities that may occur to transmit to the several Governors of the Spanish provinces in the neighborhood copies of the President's proclamation, with accompanying letters of a conciliatory tendency.

To defray any reasonable expenditures which may necessarily attend the execution of these instructions, the President authorizes you, having due regard to economy, to draw for a sum not exceeding, in any event, twenty thousand dollars.

From the confidence which the President justly has in your judgment and discretion, he is persuaded that, in the execution of this trust, as delicate as it is important, your deportment will be temperate and conciliatory. Such a line of conduct towards the inhabitants is prescribed as well by policy as by justice.

You will, it is expected, be fully sensible of the necessity not only of communicating every important event, that may occur in the progress of this business, but of transmitting a letter, whatever may be its contents, by every mail to this city. I have the honor to be, &c.

R. SMITH.

W. C. C. CLAIBORNE, Esq. &c.

[Referred to in the preceding letter.]

By the President of the United States of America.

A PROCLAMATION.

Whereas the territory south of the Mississippi Territory and eastward of the river Mississippi, and extending to the river Perdido, of which possession was not delivered to the United States in pursuance of the treaty concluded at Paris on the 30th of April, 1803, has, at all times, as is well known, been considered and claimed by them, as being within the colony of Louisiana conveyed by the said treaty, in the same extent that it had in the hands of Spain, and that it had when France originally possessed it;

And whereas the acquiescence of the United States in the temporary continuance of the said Territory under the Spanish authority was not the result of any distrust of their title, as has been particularly evinced by the general tenor of their laws, and by the distinction made in the application of those laws between that Territory and foreign countries, but was occasioned by their conciliatory views, and by a confidence in the justice of their cause, and in the success of candid discussion and amicable negotiation with a just and friendly Power;

And whereas a satisfactory adjustment, too long delayed, without the fault of the United States, has for some time been entirely suspended by events over which they had no control; and whereas a crisis has at length arrived subversive of the order of things under the Spanish authori-

ties, whereby a failure of the United States to take the said Territory into its possession may lead to events ultimately contravening the views of both parties, whilst, in the mean time, the tranquillity and security of our adjoining Territories are endangered, and new facilities given to violators of our revenue and commercial laws, and of those prohibiting the introduction of slaves:

Considering, moreover, that under these peculiar and imperative circumstances, a forbearance on the part of the United States to occupy the Territory in question, and thereby guard against the confusions and contingencies which threaten it, might be construed into a dereliction of their title, or an insensibility to the importance of the stake: Considering that in the hands of the United States it will not cease to be a subject of fair and friendly negotiation and adjustment: Considering, finally, that the acts of Congress, though contemplating a present possession by a foreign authority, have contemplated also an eventual possession of the said Territory by the United States, and are accordingly so framed as, in that case, to extend in their operation to the same:

Now be it known, that I, JAMES MADISON, President of the United States of America, in pursuance of these weighty and urgent considerations, have deemed it right and requisite that possession should be taken of the said Territory, in the name and behalf of the United States. William C. C. Claiborne, Governor of the Orleans Territory, of which the said Territory is to be taken as part, will accordingly proceed to execute the same, and to exercise over the said Territory the authorities and functions legally appertaining to his office. And the good people inhabiting the same are invited and enjoined to pay due respect, to him in that character, to be obedient to the laws, to maintain order, to cherish harmony, and in every manner to conduct themselves as peaceable citizens, under full assurance that they will be protected in the enjoyment of their liberty, property, and religion.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand.

Done at the City of Washington, the twenty-seventh day of October, A. D. 1810, and in the thirty-fifth year of the independence of the said United States. JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

Mr. Smith to Governor Holmes.

DEPARTMENT OF STATE, Nov. 15, 1810.

SIR: I have received your letter of the 17th of October, enclosing the memorial of the Convention of West Florida. To repress the unreasonable expectations therein indicated in relation to the vacant land in that Territory, it is deemed proper to lose no time in communicating to you and to Governor Claiborne the sentiments of the President on the subject.

The right of the United States to the Territory of West Florida, as far as the river Perdido, was

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fairly acquired by purchase, and has been formally ratified by treaty. The delivery of possession has, indeed, been deferred, and the procrastination has been heretofore acquiesced in by this Government, from a hope, patiently indulged, that amicable negotiation would accomplish the equitable purpose of the United States. But this delay, which proceeded only from the forbearance of the United States to enforce a legitimate and well known claim, could not impair the legality of their title; nor could any change in the internal state of things, without their sanction, howsoever brought about, vary their right. It remains, of course, as perfect as it was before the interposition of the Convention. And the people of West Florida must not for a moment be misled by the expectation that the United States will surrender, for their exclusive benefit, what had been purchased with the treasure and for the benefit of the whole. The vacant land of this Territory, thrown into common stock with all the other vacant land of the Union, will be a property in common, for the national uses of all the people of the United States. The community of interests upon which this Government invariably acts, the liberal policy which it has uniformly displayed towards the people of the Territories, (a part of which policy, has ever been a just regard to honest settlers,) will, nevertheless, be a sufficient pledge to the inhabitants of West Florida for the early and continued attention of the Federal Legislature to their situation and their wants.

These observations will apprise you, sir, of the sentiments of the President, as to the propositions in the memorial in relation to the vacant land in West Florida, and will enable you to make, when necessary and proper, suitable explanations to the people of that Territory. You will, however, keep in mind that the President cannot recognise in the Convention of West Florida any independent authority whatever to propose or to form a compact with the United States.

I am sir, with the highest respect, your most obedient servant,

R. SMITH.

His Ex'cy DAVID HOLMES.

Governor Folch to Mr. Smith, Secretary of State.

MOBILE, *December 2, 1810.*

SIR: I will not detain myself in giving to your Excellency information relative to the letter which I directed to his Excellency Governor Holmes, being persuaded that it will be in the hands of your Excellency long before this; but I will add to its contents, for your government, that I have decided on delivering this province to the United States under an equitable capitulation, provided I do not receive succor from the Havana or Vera Cruz, during the present month; or that his Excellency the Marquis of Someruelos, (on whom I depend,) should not have opened directly a negotiation on this point.

The incomprehensible abandonment in which I see myself, and the afflicted situation to which this province sees itself reduced, not only authorize me, but force me to have recourse to this de-

termination, the only one to save it from the ruin which threatens it.

The United States are also authorized to accept it; for as the disturbances which now afflict this province, so near to them, must increase every day, they cannot but have an influence on their tranquillity, an object which merits the first care of every Government.

The inhabitants of Baton Rouge may figure to themselves many motives which may, (in their conception,) justify the determination they have adopted; but they cannot produce even a single one which can make tolerable the tyrannical, illegal, and unjust obstinacy with which they insist that the other districts should subject themselves to their will.

The United States, who profess the exercise of equity, cannot exempt themselves from taking part with the party unjustly oppressed. In this belief, I recur to its Executive, through the medium of your Excellency, supplicating him, that he will be pleased to send orders to the commandant of Fort Stoddert, that he should assist me with the troops which he has under his orders, for the purpose of forcing the party under the command of Reuben Kemper to retire within the limits of the districts of Baton Rouge; intimating to him, that if in future he should repeat his incursions in the district of Mobile and Pensacola, the troops of the United States, joined to the Spanish troops, will use force to keep them back.

These districts have the more reason to expect from the rectitude of the United States the assistance which I ask, as the party which Kemper commands has been recruited, armed, and provisioned within the limits of their sovereignty.

At the same time, if my proposition is accepted, orders may be given authorizing some person to treat with me for regulating the evacuation of the province, and what ought to precede it.

I conclude by assuring your Excellency of my consideration and respect.

God preserve your Excellency many years.

VINCENTE FOLCH.

His Ex'cy R. SMITH, &c.

Governor Folch to Colonel McKee.

MOBILE, *Dec. 2, 1810.*

SIR: Since the conversations I have had with you respecting the disturbances which at present afflict this province, I have thought of addressing myself directly to the Executive power of the United States, through the medium of their Secretary of State, proposing to treat for the delivery of the province in more positive terms than those which I employed in the letter that I wrote to his Excellency Governor Holmes, because, as our difficulties every day increase, the necessity of hastening their conclusion increases also.

I have believed, also, that it might be conducive to the better exit of this negotiation, that my despatch should be intrusted to a person who could give to the Government every information that it ought to possess, in order that it may deliberate with the brevity which is necessary; and

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considering, sir, that you are in a situation to fulfil this object, from having been an eye-witness to all that has passed in this part of the province and the adjacent country, you can give information respecting the alarm which reigns among the inhabitants, of the influence which the French agents in Louisiana exercise in these disturbances, and the risk which that province runs of being involved in the disorders which have had their birth in Florida, as well as the fatal consequences which may follow if the evil is not stopped in its beginning, and whatever else can be said on the subject.

In order to avoid accidents and delays, which it is not easy to foresee, I will deliver to you duplicates of the despatch which I address to his Excellency the Secretary of State, in order that you may transmit one of them by the mail, and by this means give early information to the Government of the affairs on which it has to deliberate.

The satisfaction I have enjoyed for many years in your acquaintance assures me that you will use every exertion in a matter which is so interesting to our respective countries.

I remain, &c.

V. FOLCH.

Col. JOHN McKEE.

Colonel McKee, to Mr. Eustis.

FORT STODDERT, Dec. 5, 1810.

SIR: Having on the 21st ult. taken the liberty of addressing you on the subject of the disturbances in this quarter, and having no personal acquaintance with any member of the present Executive, I have presumed to enclose to your care a despatch from Governor Folch to the Secretary of State. I have also enclosed a hasty translation of Governor Folch's letter to me, which, with some other considerations, has induced me to proceed immediately to the City of Washington, for which I leave this in two or three days, and will proceed with the least possible delay to Knoxville. I have the honor, &c.

JOHN McKEE.

Hon. WILLIAM EUSTIS.

Mr. Morier to Mr. Smith.

WASHINGTON, Dec. 15, 1810.

SIR: I deem it to be a duty incumbent on me, considering the strict and close alliance which subsists between His Majesty's Government and that of Spain, to express to the Government of the United States, through you, the deep regret with which I have seen that part of the President's Message to Congress, in which the determination of this Government to take possession of West Florida is avowed.

Without presuming to discuss the validity of the title of the United States to West Florida, (a title which is manifestly doubtful, since, according to the President's proclamation, it is left open to discussion, but which has, nevertheless, been brought forward as one of the pleas to justify the occupation of that province,) may it not be asked

why that province could not have been as fairly a subject of negotiation and adjustment in the hands of the Spaniards, who possess the actual sovereignty there, as in the hands of the Americans, who, to obtain possession, must begin by committing an act of hostility toward Spain?

But it may be said that the Spanish forces in Mexico, in Cuba, or at Pensacola, are unequal to quell the rebellious association of a band of desperadoes who are known here by the contemptuous appellation of land-jobbers. Allowing as much; (which you will agree with me, sir, is allowing a great deal,) would it not have been worthy of the generosity of a free nation like this, bearing, as it doubtless does, a respect for the rights of a gallant people at this moment engaged in a noble struggle for its liberty—would it not have been an act on the part of this country, dictated by the sacred ties of good neighborhood, and of friendship, which exist between it and Spain, to have simply offered its assistance to crush the common enemy of both, rather than to have made such interference the pretext for wresting a province from a friendly Power, and that in the time of her adversity?

For allow me, sir, to inquire how can the declaration in the President's proclamation, "that in the hands of the United States, that territory will not cease to be a subject of fair and friendly adjustment," be made to accord with the declaration in his Message to Congress, (implying permanent possession,) "of the adoption of that people into the bosom of the American family?"

The act, consequently, of sending a force to West Florida to secure by arms what was before a subject of friendly negotiation, cannot, I much fear, under any palliation, be considered other than as an act of open hostility against Spain.

While, therefore, it is impossible to disguise the deep and lively interest which His Majesty takes in everything that relates to Spain, which would, I am convinced, induce him to mediate between Spain and the United States on any point of controversy which may exist between them, with the utmost impartiality and good will toward both parties, I think it due to the sincere wish of His Majesty, to maintain unimpaired the friendship which at this moment happily exists between Great Britain and the United States, to say that such are the ties by which His Majesty is bound to Spain, that he cannot see with indifference any attack upon her interests in America. And as I have no doubt that the Government of the United States will attribute this representation to the most conciliatory motives, I am induced to request, in answer to it, such explanation on the subject, as will at once convince His Majesty's Government of the pacific disposition of the United States toward His Majesty's allies the Spaniards, and will remove the contrary impression, which, I fear, the President's Message is likely to make.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

J. P. MORIER.

Hon. R. SMITH, *Secretary of State.*

Relations with Tunis.

Mr. Morier to Mr. Smith.

WASHINGTON, Dec. 22, 1810.

Mr. Morier presents his compliments to Mr. Smith, and begs the favor to be informed when he may expect an answer to the letter which he had the honor to address to Mr. Smith on the 15th instant.

Mr. Morier, at the same time, hopes that Mr. Smith, concurring with him in the opinion that it would be desirable that His Majesty's Government should, as soon as possible after the receipt of the President's Message, be furnished with the explanation which Mr. Morier has requested in the above letter on the occupation of West Florida in the name of the United States, will readily excuse the solicitude with which he again presses this subject upon the attention of this Government.

Mr. Smith to Mr. Morier.

STATE DEPARTMENT, Dec. 28, 1810.

SIR: Taking into view the subject and the circumstances of your letter of the 15th instant, I have, in acknowledging it, only to remark to you, that although it is sufficiently evident, from the face of the documents before the public, that no hostile or unfriendly purpose is entertained toward Spain, the only Power known to the United States in the transaction, yet our functionary at London has been enabled to give to your Government whatever explanations may comport with the frankness and the spirit of conciliation which have been invariably manifested on the part of the United States.

I have the honor to be, &c.

R. SMITH.

J. P. MORIER, Esq., &c.

TUNIS.

[The following documents were communicated to Congress by the President's Message of December 5, 1810.]

Extract of a letter from John Gavino, Esq., Consul of the United States at Gibraltar, to the Secretary of State.

GIBRALTAR, September 18, 1810.

I beg leave to hand you a copy of a letter from Consul Cox, dated Malta, 26th ultimo, when he was on his return to Tunis. It has given me great pleasure to find his having succeeded in terminating amicably the differences which had taken place with that Bey.

[Referred to in the preceding letter.]

C. D. COXE to John Gavino.

MALTA, August 26, 1810.

SIR: I arrived at this place on the 22d instant, in the schooner Hamilton, Captain Whitlock, as a flag of truce, in consequence of an unfavorable change in the situation of our affairs at Tunis, with the expectation of making some arrangement whereby the difficulty which has taken place may be amicably adjusted.

On the 14th instant, His Excellency, the Bey, sent a messenger to request my presence at the palace. I accordingly presented myself, and he informed me that, in consequence of the seizure of a vessel belonging to him and bearing his flag, through the interference of Mr. Pulis, the American Consul at Malta, he had given orders to arrest all the Americans and sequester all their property in the Kingdom of Tunis, which he would hold until he received full satisfaction from the United States, considering them responsible for the acts of their public agents.

The vessel alluded to was the ship *Liberty*, of Philadelphia, belonging to William Hazlett of that place, which had been taken by a French privateer, brought to Tunis, and sold by order of the French Consul at public auction. The first Minister of the Bey was the purchaser, and she afterwards proceeded to Malta under Tunisian colors, where she arrived without interruption in the month of May last. Mr. Pulis, the American Consul, applied to the Maltese court, or *Consulate del Maore*, (as the British Vice Admiralty Court would not interfere,) and claimed the ship for the original American owners. His Excellency, the Bey, on being informed of this, took the measures before related.

He not only regards this as a loss of property, but as an insult offered to his flag, and will view it as a declaration of war if the ship should not be restored to him, with damages of detention. He insists on the right of purchasing prize vessels at auction, or any others offered for sale in his Kingdom, and that his flag shall protect them. His Excellency declared that he had given me the strongest proofs of his justice and friendly disposition to my Government, in causing all the American vessels with their cargoes to be released which had been taken within the limits of this jurisdiction; but that those taken on the high seas was an affair between the American and French Governments, and did not concern him. He has warned me that, if the ship *Rolla* (an American vessel, taken by a French privateer without his jurisdictional limits, and purchased by his agents at public auction at the French consulate,) should be hereafter claimed by an American citizen and given up to him, the Americans, with their property at Tunis, shall be answerable for the event.

The amount of American property at Tunis may be computed at about two hundred and fifty thousand dollars.

All my endeavors to deter his Excellency from these harsh measures were of no avail. He assured me, in the most solemn manner, that he would not only firmly adhere to the steps he had already taken, but would pursue such others as he might deem necessary. I have now, however, to inform you that on my arrival here, and in consequence of my having officially informed Mr. Pulis of what had taken place at Tunis, he has, as the only alternative to prevent a war, withdrawn his claim, and the ship has been restored to the Bey's Ambassador at this place, whereby our relations with that Regency are

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again placed on the same friendly footing on which they were before this unfortunate occurrence took place.

I shall sail on my return to Tunis immediately in the vessel which brought me here; having thus brought the difficulty which had arisen to an amicable conclusion, on terms which, I trust, will be satisfactory to my Government.

Very respectfully, I have the honor to be, sir, your most obedient, humble servant.

C. D. COXE.

JOHN GAVINO, Esq.

FRANCE.

[Communicated to the House, Dec. 29, 1810.]

To the House of Representatives :

I lay before the House a report from the Secretary of State, complying with their resolution of the 21st instant.

J. MADISON.

DECEMBER 28, 1810.

DEPARTMENT OF STATE, Dec. 28, 1810.

SIR: In pursuance of a resolution of the House of Representatives of the 21st of this month, I have the honor of laying before you:

1st. A copy (marked A) of a decree of the Emperor of France, transmitted to this Department by General Armstrong:

2d. A copy (marked B) of a correspondence with General Turreau.

3d. A copy (marked C) of a communication just received from General Armstrong, in relation to the duties lately imposed by the Emperor of France.

With the highest respect and consideration, I have the honor to remain, &c.

R. SMITH.

To the PRESIDENT of the United States.

A.

Translation of a decree of the 15th July, 1810.

Thirty or forty American vessels may import into France, under license, cotton, fish, oil, dye-wood, salt fish, codfish, hides, and peltry. They may export wine, brandy, silks, linens, cloths, jewelry, household furniture, and other manufactured articles. They can only depart from Charleston and New York, under the obligation of bringing with them a gazette of the day of their departure, (American gazette,) moreover a certificate of the origin of the merchandise, given by the French Consul, containing a sentence in cipher. The French merchants, who shall cause these vessels to come, must prove that they are concerned in the fabrics at Paris, Rouen, and other towns.

B.

General Turreau to Mr. Smith.

WASHINGTON, Nov. 27, 1810.

SIR: Since our last conversation relative to the certificates of origin given by the Consuls of His

Majesty in the United States, I have collected and read over the different orders of my Court on that subject, and asked of the Consul General of France those which he might have received directly on this part of the service, so essential for the security of your exportations.

It results from the instructions which I have received directly, and from those that have been sent to the Consul General, that the Consuls of His Majesty in the United States do not deliver, or must not hereafter deliver, under any pretext, any certificate of origin to American vessels destined for any port other than those of France; that they deliver them, and will deliver them hereafter, to all American vessels destined for the ports of France, loaded only with the produce of the United States; that all the certificates anterior to the last instructions, attributed to the Consuls of His Majesty, and which, it is pretended, were given for colonial produce, that evidently came from England, have been challenged as false, (*argués de faux*,) inasmuch as the English publicly fabricate papers of this sort at London.

This, sir, is all that it is possible for me to say to you at present respecting certificates of origin.

I cannot doubt but that the Government of the United States will see, in these regulations of my Court, an intention, distinctly pronounced, of favoring the commercial relations between France and the United States in all the objects of traffic which shall evidently proceed from their agriculture or manufactures.

You will readily perceive, sir, that, in giving this latitude to the mutually advantageous relations of the two friendly people, the Emperor cannot depart from the system of exclusion against English commerce, without losing the advantages which His Majesty and the allied Powers must necessarily expect from it.

I have the honor to be, with high consideration, &c.

TURREAU.

Hon. R. SMITH. *Sec. of State.*

The Secretary of State to General Turreau.

DEPARTMENT OF STATE, Nov. 28, 1810.

SIR: I have had the honor of receiving your letter of yesterday, stating that the French Consuls in the United States are, at this time, authorized to deliver certificates of origin only to such American vessels as are bound to some port of France, and as are laden with the produce of the United States.

It will afford satisfaction to our merchants to know, and, therefore, I have to request you to inform me whether, in American vessels having such certificates of origin, they can export every kind of produce of the United States, and especially cotton and tobacco.

In addition to the intelligence communicated in your letter in relation to the certificates of origin, I have the honor of asking from you information upon the following questions:

1st. Have not the French Consuls been in the practice, under the authority of the French Government, of delivering, in the ports of the Uni-

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ted States, certificates of origin for American vessels bound to the ports of France and her allies, and laden with either colonial produce, or the produce of the United States?

2d. Have the French Consuls in the United States lately received from the French Government instructions not to deliver such certificates of origin for American vessels, and at what time did they receive such instructions?

3d. At what time did the French Consuls cease to issue certificates of origin to American vessels, in pursuance of instructions from their Government, in cases of destination to ports of the allies of France?

These facts being connected with questions interesting to our merchants in foreign tribunals, your goodness will pardon the resort to your aid in ascertaining them. I have, &c.

GEN. TURREAU, &c.

R. SMITH.

General Turreau to Mr. Smith.

WASHINGTON, Dec. 12, 1810.

SIR: If I have not replied sooner to the letter which you did me the honor to write to me on the 28th of last month, it is because I have sought information from the Consul General of His Majesty, whether he had not received, directly, instructions more recent than those which I had transmitted to him, and, also, to enable me to give a positive answer to the questions contained in the letter referred to above.

I reply, sir, to the first of your questions, that Messieurs the Consuls of His Majesty to the United States have always delivered certificates of origin to American vessels for the ports of France; they did it in execution of a decree of His Majesty of the first of Messidor of the year eleven.

Messieurs the French Consuls have, also, delivered them to vessels destined for neutral or allied ports, whenever they have been required of them. This measure was sanctioned and authorized by a circular despatch of His Excellency the Minister of Foreign Relations, under date of the 20th of April, 1808. This despatch prescribes the formality to be gone through for the certificates delivered in such cases.

I proceed now, sir, to reply to the second of your questions.

By a despatch of his Excellency the Duke of Cadore, of the 30th of August last, received by the Hornet, the 13th of last month, and of which information was given the same day to the Consuls and Vice Consuls of His Majesty, they are expressly prohibited from delivering certificates of origin for merchandise of any kind, or under any pretext whatever, if the vessels are not destined for France.

This reply to your second question, sir, furnishes you with a solution of the third. The Consuls and Vice Consuls of His Majesty will have ceased to deliver certificates of origin to vessels for any other place than France, immediately on the receipt of this circular, which will

reach them a few days sooner or later, according to the greater or less distance of the places of their residence.

Concerning cotton and tobacco, their importation into France is, at this moment, specially prohibited; but, I have reasons to believe, (and I pray you, meanwhile, to observe, sir, that they do not rest upon any facts,) that some modifications will be given to this absolute exclusion. These modifications will not depend upon the chance of events, but will be the result of other measures, firm, and pursued with perseverance, which the two Governments will continue to adopt, to withdraw from the monopoly and from the vexations of the common enemy a commerce loyal (*loyal*) and necessary to France as well as to the United States.

Accept, sir, the renewed assurances of my high consideration.

TURREAU.

Hon. R. SMITH, *Sec. of State.*

The Secretary of State to General Turreau,

DEPARTMENT OF STATE, Dec. 18, 1810.

SIR: I have had the honor of receiving your letter of the 12th instant, in reply to my inquiries in relation to certificates of origin, as well as to the admission into France of the products of the agriculture of the United States.

From your letter, it appears that the importation into France of cotton and tobacco, the produce of the United States, is, at this time, specially and absolutely prohibited.

From the decree of the 15th July, it, moreover, appears that there can be no importation into France but upon terms and conditions utterly inadmissible; and that, therefore, there can be no importation at all of the following articles, the produce of the United States, namely, fish-oil, dye-wood, salt fish, codfish, hides, and peltry.

As these enumerated articles constitute the great mass of the exports from the United States to France, the mind is naturally awakened to a survey of the actual condition of the commercial relations between the two countries, and to the consideration that no practical good, worthy of notice, has resulted to the United States from the revocation of the Berlin and Milan decrees, combined, as it unexpectedly has been, with a change in the commercial system of France, so momentous to the United States.

The act of Congress of May last had for its object, not merely the recognition of a speculative legitimate principle, but the enjoyment of a substantial benefit. The overture therein presented, obviously embraced the idea of commercial advantage. It included the reasonable belief that an abrogation of the Berlin and Milan decrees would leave the ports of France as free for the introduction of the produce of the United States, as they were previously to the promulgation of those decrees.

The restrictions of the Berlin and Milan decrees had the effect of restraining the American merchant from sending their vessels to France. The interdictions in the system that has been

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substituted against the admission of American products will have the effect of imposing upon them an equal restraint. If, then, for the revoked decrees, municipal laws, producing the same commercial effect, have been substituted, the mode only, and not the measure, has undergone an alteration. And, however true it may be that the change is lawful in form, it is, nevertheless, as true, that it is essentially unfriendly, and that it does not at all comport with the ideas inspired by your letter of the 27th ultimo, in which you were pleased to declare the "distinctly pronounced intention of His Imperial Majesty of favoring the commercial relations between France and the United States in all the objects of traffic which shall evidently proceed from their agriculture or manufactures."

If France, by her own acts, has blocked up the ports against the introduction of the products of the United States, what motive has this Government, in a discussion with a third Power, to insist on the privilege of going to France? Whence the inducement to urge the annulment of a blockade of France, when, if annulled, no American cargoes could obtain a market in any of her ports? In such a state of things, a blockade of the coast of France would be to the United States as unimportant as would be a blockade of the coast of the Caspian sea.

The British edicts may be viewed as having a double relation; first, to the wrong done to the United States; secondly, to the wrong done to France. And it is in the latter relation only, that France has a right to speak. But, what wrong, it may be asked, can France suffer from British orders which co-operate with her own regulations?

However sensible the United States may be to the violation of their neutral rights under those edicts, yet, if France herself has, by her own acts, rendered it a theoretical instead of a practical violation, it is for this Government to decide on the degree in which sacrifices of any sort may be required by considerations which peculiarly and exclusively relate to the United States. Certain it is, that the inducements to such sacrifices are weakened, as far as France can weaken them, by having converted the right to be maintained into a naked one, whilst the sacrifices to be made would be substantial and extensive.

A hope, however, is indulged, that your instructions from your Government will soon enable you to give some satisfactory explanations of the measures to which reference has been made, and that their operation, in virtue of modifications which have not yet transpired, will not be as has been herein represented.

The President has received with great satisfaction the information that the Consuls of France have been heretofore, in the official and authorized practice of furnishing certificates of origin to American vessels, as well as to those destined to neutral ports, as to those whose sovereigns are in alliance with France; and that this practice, sanctioned by the French Government, did not cease in any part of the United States before the

13th of last month, and then, only in consequence of a despatch from the Duke of Cadore, bearing date the 30th of August preceding. This satisfaction arises from the hope that similar information may have been given to the Danish Government, and from a sense of the happy influence which such a communication will have had on the American property that had been seized and detained by the privateers of Denmark, upon the supposition that these certificates of origin were spurious, and not authorized by the French Government. It is, nevertheless, to be regretted, that the functionaries of France in Denmark had not made known to the Danish authorities, during the occurrence of such outrages on the American trade, the error of denouncing as illegitimate authentic documents which had been lawfully issued by the accredited agents of His Imperial Majesty. I have the honor to be, &c.

R. SMITH.

General TURREAU, &c.

Translation of a letter from General Turreau to Mr. Smith.

WASHINGTON, Dec. 25, 1810.

SIR: I have received the letter you have done me the honor to write me on the 18th of this month, and I hasten to transmit a copy of it to his Excellency the Duke de Cadore.

This despatch, sir, being an answer to the letters which I had the honor to write to you on the 27th of November and the 12th of this month, naturally takes me back to their object, to which I believe it is my duty again to call your attention.

I pray you to observe that the last instructions I have received from my Court relative to the new directions the commerce of France with the United States must follow, are of a very old date; the official despatches from which I have taken them are of the 12th and 28th of April last.

It is the more probable that the regulations of my Government, in regard to this commerce, have undergone some modifications, as the Consul General received by the Hornet despatches of the 10th July, and 22d and 30th August last, in which it is specially stated that cottons may be imported into France in American vessels, and under certain regulations; whereas, according to the instructions which were addressed to me on the 12th and 28th of April preceding, cotton and tobacco are specially prohibited.

I will add to these data, (*ces donnees*), that, according to the orders transmitted to the Consuls of His Majesty respecting certificates of origin, and under the date before cited, (30th August last,) they may deliver them to all American vessels destined for France; observing that these certificates are not applicable *but to the products of the United States*. If these certificates of origin cannot be applied but to the productions of the United States, and cannot be given to any vessels but those destined for France, the introduction of these productions is not then prohibited there.

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You will be pleased especially to observe, sir, that the dispositions which were announced to me by the despatches of the 12th and 28th of April, are, of course, anterior to the repeal of the decrees of Berlin and Milan, and are necessarily without an object the moment the said decrees are no longer in force. I do not know of any subsequent acts which modify this repeal; for the instructions already cited, sent to the Consul General the 30th of August last, relative to the certificates of origin, are only a consequence of it, and formally exclude only colonial productions.

Furthermore sir, I have before me the letters of the Duke of Cadore to General Armstrong, under date of the 5th of August and 12th September, of which copies have been sent to me by order of my Court. These are the only documents on which it seems to me reasonable to fix the attention, (*s'arrêter*;) and I see in them nothing which can cause it to be supposed that the French Government may have had an intention to modify or to restrict the repeal of the before-cited decrees. This act contains no reserve; it does not exact any guaranty. The declaration of the Duke of Cadore is formal; and it is the provisions themselves of the act of the honorable Congress of the 1st of May last, which have dictated to him the consequence.

I seize this occasion with eagerness, sir, to renew to you the assurance of my high consideration.

TURREAU.

C.

General Armstrong to Mr. Smith.

WASHINGTON, December 27, 1810.

SIR: The enclosed documents, marked 1 and 2, were intended to have made part of my last communication. The paper, entitled *Avis au commerce*, &c. (notice to merchants,) contains a tariff of the new duties payable in France, and shows, besides, what are the articles of commerce admissible there. If this paper has no other value, it will be found important from the illustration it gives to that passage of the Duke of Cadore's letter to me of the 12th of September last, in which he says that "American vessels loaded with merchandise, the growth of the American States, will be received without difficulty into the ports of France." It is also in perfect concert with the practice of the French custom-house, in the case of the ship *Ida*, coming from Boston with a cargo of cotton. I am, sir, &c.

JOHN ARMSTRONG.

HON. ROBERT SMITH, *Sec'y of State*.

Notice to merchants on the scale of the 1st of August, 1810.

Designation.	Tares.	Custom-house duties.
Oars - - - - -	-	2 francs the 100.
Cotton of Brazil, Surinam, Cayenne, Demara- ra, and Georgia—long staple - - - - -	6 per cent.	800 francs the 100 killogrammes
Cotton of every other country except Naples - - - - -	6 per cent.	600 francs the 100 killogrammes.
Logwood - - - - -	-	80 francs the 100 killogrammes.
Cocoa - - - - -	3 per cent.	1000 francs the 100 killogrammes.
Coffèe in bags - - - - -	3 per cent.	} 400 francs the 100 killogrammes.
Coffèe in casks - - - - -	12 per cent.	
Cigars in boxes - - - - -	12 per cent.	400 fr'cs the 100 kill. and 80 on manufacture.
Cloves in bags - - - - -	2 per cent.	600 francs the 100 killogrammes.
Gum Arabic in bags - - - - -	2 per cent.	4 francs 8 centimes the 100 killogrammes.
Fish oil in casks - - - - -	15 per cent.	25 francs the 100 killogrammes.
Beans in hogsheads - - - - -	12 per cent.	100 centimes the 100 killogrammes.
Indigo in seroons - - - - -	6 per cent.	} 900 francs the 100 killogrammes.
Indigo in cases and casks - - - - -	12 per cent.	
Potash in casks - - - - -	12 per cent.	15 centimes per 100 francs.
Black pepper in bags - - - - -	3 per cent.	400 francs the 100 killogrammes.
Oak plank - - - - -	-	15 centimes per cent. <i>ad valorem</i> .
Peruvian bark in boxes - - - - -	12 per cent.	} 200 francs the 100 killogrammes.
Peruvian bark in seroons - - - - -	2 per cent.	
Rice in barrels - - - - -	12 per cent.	10 francs the 100 killogrammes.
Rum (<i>au litre</i>) - - - - -	-	80 centimes <i>le litre</i> .
Rocou in casks - - - - -	12 per cent.	12 francs the 100 killogrammes.
Clayed sugar in boxes and casks - - - - -	12 per cent.	400 francs the 100 killogrammes.
Raw sugar in boxes and barrels - - - - -	15 per cent.	300 francs the 100 killogrammes.
Tobacco in leaf, box, or hogshead - - - - -	12 per cent.	} 400 fr'cs the 100 kill. and 80 on manufacture.
Tobacco in <i>sacs ou paniers</i> - - - - -	2 per cent.	

NOTE.—The additional *tenth* is not comprised in the above duties.

☞ The document, of which the above is a translation, is in print; and under the words "Custom-house duties," (*"Droits de Douane,"*) are in manuscript the following words, viz: "By decree of 5th August, 1810."

Relations with Spain.

SPAIN.

[Communicated to Congress, January 10, 1811.]

*To the Senate and House of
Representatives of the United States :*

I communicate to Congress, in confidence, the translation of a letter from Luis de Onis, the Captain General of the province of Caraccas.

The tendency of misrepresentations and suggestions, which, it may be inferred from this specimen, enter into more important correspondences of the writer, to promote in foreign councils, at a critical period, views adverse to the peace and to the best interests of our country, renders the contents of the letter of sufficient moment to be made known to the Legislature.

JAMES MADISON.

JANUARY 19, 1811.

Translation of a letter from Luis de Onis to the Captain General of the Province of the Caraccas, dated

CITY OF PHILADELPHIA,
February 2, 1810.

The Administration of this Government, having put the stamp upon the servile meanness and adulation in which they stand in relation to their oracle, Bonaparte, the day before yesterday, by their direction, Mr. Eppes, the son-in-law of the former President, Jefferson, made a proposition that a Minister should be immediately sent to Joseph Bonaparte, at Madrid. This was supported, in the committee in which the House then was, by Mr. Cutts, who is the brother-in-law of President Madison. There were various debates, there were howlings of the tribunals, there were sarcasms against the Supreme Central Junta, and many trifling observations from one party and the other, among which mention was made of the arrival of a Minister from the Supreme Junta, and of this Government's having wisely refused to receive him; and, at length, a vote was taken, from which it resulted that, for the present, no Minister was to be sent to Joseph.

In the annexed paper you will see all the debates, which, for want of time, I have not been able to have translated. If your Excellency should not be informed, by my former despatches, of the mode of thinking of the present Administration, this alone will show the little hope there is of obtaining anything favorable from it, but by energy, by force, and by chastisement.

The facility—I again repeat it, and I will repeat it a thousand times—with which American vessels are admitted into our colonies, preferring them to our own, makes these people believe that our weakness does not permit us even to talk to them on equal terms, much less to take measures which may injure them. From hence springs the great opinion (*la grande opinion*) they have, that the intruder, Joseph, will rule in Spain and her colonies; and hence the incitement to their scandalous conduct in promoting, by every means in their power, the machinations

of Joseph to make himself master of our colonies, as if upon that depended their happiness.

The determination of making war on England, and of treating Spain with contempt, supposing that her nullity did not entitle her to anything else, was taken by the present Administration some time since; though it was not in them the determination of reason. To accomplish it, they thought of forming an alliance, offensive and defensive, between France, Russia, Denmark, Sweden, and the United States; and some even suppose that it is formed. With this object they have sent Mr. Adams to the Court of St. Petersburg, in quality of Minister Plenipotentiary, directing him to examine on his way (*haciendole recorrer al paro*) the Courts of Stockholm and Copenhagen; but, notwithstanding this, if England should display her energy, in however small a degree, and if, on our part, some vessels should be sent to their coasts, and some troops should draw near to Louisiana, there is reason to believe that we should see these provinces separated and divided into two or three Republics, and, consequently, they would remain in a state of perfect nullity. We should soon have from the Republic of the North, which would be our friend, all the supplies which are now drawn from the others, who would perish from poverty and quarrels among themselves.

This country is now without a cent, with a deficit of four millions of dollars in her revenue, with not more of an effective army than six thousand despicable men, of whom two thousand five hundred, that they had at New Orleans, are reduced by death to six hundred; and although they have passed a law for one hundred thousand, much time and money will be necessary to organize them. Its navy is for the most part disarmed, although they propose to arm it, and the whole of it is reduced to eight or nine frigates. The blindness of these people is such, that the Secretary of the Treasury (Gallatin) speaking with Colonel Joseph de Gonzales, late Governor of Puno, who, from his having come from the Havana, Mexico, and other provinces, he believed (not knowing his integrity) to be one of the many emissaries of Napoleon, the caste which abounds most here, offered to him the constitution of Paine, and other papers relative to the liberty which here they dispute about, persuading him to send them to Mexico and our other colonies, and that he should endeavor to induce them to unite themselves to this Republic; that here they were ready, if this succeeded, to move near to them, or even to place in their country the seat of Government. These, sir, are the ideas with which this Administration is animated. Notwithstanding, at the time they observed this conduct, they sent General Sumter in the character of Minister Plenipotentiary to Rio Janeiro.

God preserve you many years.

LUIS DE ONIS.

TO THE CAPTAIN GENERAL
of the Province of Caraccas.

Encouragement to Manufactures.

ENCOURAGEMENT TO MANUFACTURES.

Communicated to the Senate, January 22, 1811.

To the honorable the Congress of the United States, the memorial of the subscribers, citizens of the town of Lexington, and county of Fayette, and State of Kentucky, respectfully sheweth:

That the present situation of the mechanics and manufacturers of the United States, is peculiarly interesting to the people generally, and well deserves the attention of Congress. In all the acts and deliberations of your honorable body, it appears to your memorialists, that a predilection for the interest of commerce has always been discoverable, while little has been done in favor of the internal industry of the country. Your revenue system, it must be confessed, has afforded it some partial protection; but that system appears to have been calculated only for the purposes of revenue; and, as powerfully as it might be made to encourage domestic manufactures, no act seems to have been adopted with that view; on the contrary, commerce has met with your exclusive protection and support. To prove this, let us refer to the immense sums that have been expended in the fortification of the seaports; to the establishment of a navy; to the expenditures occasioned by our intercourse with foreign nations; to the duties which have been laid on foreign tonnage; to the bounties which protect the fisheries; to the credits given to merchants at our custom-houses; and, in fine, to the many sacrifices which have been made to commerce. We do not, however, condemn that policy which gives bounties and protection to the merchant; nor, though local in its operation, to the support which is afforded to the fisherman. We feel, upon those subjects, as Americans should do. Remote as we are situated from the seats of commerce, we do not repine at those regulations which are made for its benefit, and are content when any species of enterprise and industry is encouraged by the Government—for we know well, that the United States compose an extensive nation; that our citizens are scattered over an immense country, having various soils and climates, with as various pursuits adapted thereto; and that a Government forming laws for this population must consult the wants and necessities of each, and, by attending to particulars, promote the general good of the whole. We complain only because the protection and encouragement of industry is not made universal, and extended to every pursuit which is known in our country. If it be just in a Republic, established for the common good, to give to any one pursuit bounties, encouragement, and protection, we hold it as an undeniable truth, that all other pursuits are equally entitled to them. That the industry of the mechanics and manufactures should likewise be protected, appears from other and powerful considerations.

The rapid accumulation of wealth which the United States have made since the wars of the French Revolution, was occasioned by an un-

natural extension of commerce, and an unnatural demand for the productions of our agriculture. The labor there withdrawn from agriculture, the ravages of contending armies, and the destruction of the commercial navy of continental Europe, created a demand for our produce, and gave such employment to our shipping and such encouragement to our merchants as to occasion that rapid accumulation of wealth, and those internal improvements which have even astonished ourselves and been the wonder of the world. Upon the continuance of this state of things we are not to depend. An eternal war in Europe is not to be expected; the state is unnatural; and experience shows, that one party must give way when its resources are exhausted, or it is humbled by the victories of its enemy. When this period arrives, what has heretofore been the life of our industry, will no longer animate it, and we shall be compelled to look to other resources to preserve the wealth which we have acquired. But how can it be preserved if we do not change our system, and Congress does not give another direction to the industry of the country? Where shall we find a market for the productions of our soil? And where will our shipping find employment?

A brief view of the history of our commerce, we conceive, will place this subject in a proper point of view.

Before our Revolutionary war, our markets were in the dominions of Great Britain, and such of the colonies of European Powers as we could obtain admittance into by smuggling. After the peace of 1783, we lost the regular market of the former; and the latter, being precarious in its nature, was of little moment. Such were the colonial and commercial systems of Europe, as not to permit the introduction into their dominions, of articles which they could produce themselves, unless in seasons of scarcity; so that during the period of time which elapsed between the acknowledgment of our independence and the commencement of the French Revolution, all of our citizens who depended upon foreign commerce, were often reduced to great distress. The importation of foreign commodities drained us of our treasures; and our other commerce did not bring us back a correspondent proportion of the precious metals. Have we discovered that there exists in the breast of the rulers of Europe any disposition to abandon, upon the return of peace, their systems of commerce? Even during the wars which have raged for a few years past, they have renewed their prohibitions whenever they could do without us. In times of peace, the Powers of Europe can supply themselves and their colonies with all the provisions which they may have occasion for. Their colonies can rival us in tobacco, and in all the raw materials which they want for manufactures. In their ports we are, therefore, to expect a permanent market for a small part of our productions only, and but an uncertain and temporary one for the bulk of them. Asia and Africa want nothing from us. We hazard nothing, then, when we assert, that

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after the wars of Europe are over, foreign markets will not be found for our surplus produce, and that we shall be compelled to look at home for the reward of our labor. Another fact, perhaps, ought not to pass unnoticed. Our country is rapidly increasing in population, and its surplus produce for exportation must increase in an equal ratio. Not so the demand of foreign markets. All those circumstances combine, in the opinion of your memorialists, to show the policy of directing the industry of our citizens into such channels as will not be affected by the edicts, regulations, and wars of Europe; and to prepare, in time, for that change in business, which must take place, (and to the general distress of the country,) when a peace there will put an end to our carrying trade, and destroy the markets for our produce.

A change like this, in the direction of capital and labor, (it moreover appears to your memorialists,) will have a beneficial effect upon our foreign relations. If our most important market be at home, so large a proportion of our property will not be subjected to the depredations of the pirates of the ocean; and the people, less embarrassed by the interruptions of commerce, will more readily unite in measures calculated to vindicate the honor, and assert the rights of the nation. To prove this, let us appeal to facts; the most recent, and, of course, the most convincing, have happened within a few years. The edicts of France and England, which produced the embargo, occasioned, also, the interruption of that commerce, upon which much labor depended for employment, the merchant for his profits, and the farmer for the sale of his productions. Some capital was idle, many vessels were rotting in our ports, produce found no market, and the plough in some places was abandoned. Patriotism would prompt us to suffer for our country. But the sailor cannot feed himself in port; the farmer dislikes to lose his crops; the merchant looks with impatience upon blasted prospects and ruined fortunes; and few will be content to live on patriotism while their families are starving. Had our acting capital given life to domestic pursuits; had it given employment to labor; had our provisions been consumed, and our raw materials been fabricated by domestic artisans, instead of the farmer being compelled to look abroad in search of a market for both, we should not have felt so much the pressure of the embargo, nor would our interest have warred with our patriotism. This is the course of human events, and history proves, that the rulers of nations have always been obliged to accommodate their differences with others, upon better or worse conditions, according as the contest bore heavy or not upon their own people. Were the citizens of the United States, however, in the situation alluded to, how different would be the attitude which our Government could assume! And how much less would foreign Powers calculate upon exciting a clamor against it by the interruption of our commerce, or the general stagnation of our business.

That the interest of the country coincides with

the political and national considerations which we have enumerated in support of domestic manufactures, has been the opinion of the most enlightened statesmen of whom America can boast, and moreover, appears, from very obvious reasons. Upon the quantum of its labor is said to depend the wealth of a nation. But, to create wealth, labor must be productive; and those pursuits which put most of it into action seem best calculated to make it so. There is no pursuit—agriculture excepted—which has an effect of this nature, equal to that of the mechanic and manufacturer. The manufacturer works up our raw materials, and consumes our provisions. What he earns is kept at home, and is almost immediately circulated again, by various channels, through society. The merchant is by no means so useful a character; part of his gains are sent abroad, and paid away to foreigners. The mechanic and manufacturer likewise contribute to make the country really independent, by furnishing those supplies which we should otherwise be dependent for on foreign nations. The nation which produces but a small part of what she can consume, or grows but few articles, we have already seen, must always be a dependent one. Her wants cannot be regularly supplied, and her business appears subjected to embarrassment. Say, that her pursuit is commerce. When that is interrupted, as, for example, it has been for the last sixteen years in Holland, and how soon will she become impoverished and distressed? Let her pursuit be exclusively agriculture; and the depression of markets (which has often been the case with respect to our provisions, tobacco, and cotton,) will paralyze the industry and enterprise of the nation. Whereas the multiplication and diversity of pursuits would give a country resources which others could not deprive her of; and the industry of one part of it would cherish, invigorate, and support that of another. Nor can it be an unimportant consideration, that the increase of manufactures would tend to keep at home the precious metals, the principal and the most convenient as well as the most useful representative of wealth and labor. Desirable, however, as it may be to encourage manufactures, it can be done effectually only by Congress. The mechanic and the manufacturer in the United States has to contend with obstacles unknown to the foreigner. The British manufacturer, his great competitor, is protected by prejudice, by the course of business, by the low price of labor, and the skill of his workmen, but above all, by the strength of his capital, and the bounties and encouragement given to him by his Government. And upon almost all heavy articles, as to which an American has the best opportunity of rivaling him, those bounties and encouragements are more than equal to the freight, charges, and insurance upon the manufactured article. The American manufacturer is at present poor; he has buildings to erect, workmen to teach, and powerful prejudices to overcome: his limited capital often makes it necessary for him to force markets, while his opponent can wait for, or com-

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mand one at pleasure. Indeed, it is to be feared, that the foreigner will purposely seek opportunities to depress markets, in order to remove the American out of his way. Such have often been the effects of the jealousy of trade. Permit us, while upon this subject, to remind your honorable body of the celebrated contest between the British and Dutch, with the imperial East India Company; where the former, by depressing the prices of commodities, succeeded in annihilating or ruining the latter, supported as it was by the weight and treasures of the Emperor Joseph; a fate which may attend many establishments in America.

When we ask for adequate protection from Congress to our own manufactures, we are aware of jealousies which will be excited against us. Why, it will be asked, tax one portion of the people to benefit another? We answer, for the benefit of the whole, and to equalize the imposts which are laid to support Government. Imposts levied with this view is but taking from one pocket what is abundantly repaid to the other. Whatever gives life to the domestic industry of the country benefits every man in it. Whatever sums are paid to keep our resources at home is not lost. As in the human frame, it is like the veins returning blood to the heart, whereby the whole system may be replenished. Such are the lessons furnished by experience. How has Great Britain become the first commercial and manufacturing nation in the world? By her superior arts and industry? No. In these she is rivalled by her great competitor—by her system of restriction and protection; by those regulations which encourage her own commerce and manufactures, and by depressing those of foreign nations. What she can make and produce herself she suffers no country to supply her with. By these means she has made the industry of all nations her tributary, and by these means she has monopolized the commerce of, and manufactured for the world. But the effect of our own discriminating duties upon foreign tonnage, and that protecting system which has raised the fisheries of New England from insignificance, to be the first in the world, show sufficiently the effects produced upon the industry of a nation by this system of restriction and protection. Admitting, however, that a system like this may operate as a tax upon the industry of one part of the country, at the expense of another, it cannot long be so. When the domestic manufacturer shall have acquired experience, and his laborers are completely instructed in their business; and when, by industry and success, he shall have acquired capital sufficient to enable him to extend his business; the natural effect will be to reduce his prices to a very moderate profit; and lower often than what the same article could be afforded for from abroad.

But would not good policy dictate that the United States should meet restriction by restriction, and contend in this way against all nations who wish to make our labor and industry tributary to them? Shall we not be blind to our own

interest if we omit doing so? Repeatedly have our public characters declared that manufactures should be encouraged, and praised have those citizens often been who have established them. But they must have something more substantial to support them than praise. If foreign Governments can prevent them (as we have shown they can, and probably will do) from being productive to the proprietors, experience will show the manufacturer that his money has been expended in vain; and ill success will deter others from the same pursuit. This latter consideration we hope will have its due weight with Congress, especially when the circumstances are recollected under which our most considerable manufactures were established. The non-importation act, but particularly the embargo act, by interrupting the trade of Europe, created a demand for articles which could not be obtained from abroad, and to supply which many workshops have been erected. Out of one establishment arose another. If Congress are disposed to encourage them, now is the time. A moment so favorable to do so may not occur for years—since many citizens are disposed to engage in them if those which are erected prove successful. Success crowns every step with popularity, and produces imitators and followers; whereas, misfortune has a contrary effect. Damped would this spirit be, if the expected settlement of our differences with foreign nations were to occasion such an influx of foreign commodities as to undersell our manufacturers. Then those buildings, workshops, and warehouses, upon which so much labor and money has been expended, would lie waste, and their proprietors, with the loss of purse, would have the additional mortification of being considered merely as projectors.

But should our disputes with foreign nations end in war, and at this moment, when new codes of maritime law are hourly proclaimed, and the peaceful pursuits of all neutral nations are interrupted by the great belligerent Powers of Europe; when old States are daily overturned, and new kingdoms are as often erected; we cannot calculate upon preserving peace for a moment: would not a Congressional act for the permanent support of the mechanics and manufacturers of the country much encourage those citizens who are disposed to devote their capital to those pursuits, and as much assist our Government in the vigorous prosecution of war? You have made provision for the permanent support of a navy; and in any war in which you might engage, this must be used as a great means to annoy. Your navy, as well as the shipping of the United States, have heretofore depended upon foreigners for the supply of cordage and sail cloth. You must have clothing also for the navy and army, and depend upon the internal resources of the country for the supply of those articles. The people must likewise depend upon the home market for the supply and sale of everything.

The mechanic and manufacturer, with the protection which Congress could promise, would work with spirit, confidently expecting a con-

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stant remuneration for their labor. Whether, however, this protection should be afforded by bounties, or by prohibitory, or protecting duties upon all articles which the country can produce, or in whole or in part by loans, as recommended by the present Secretary of the Treasury, the subscribers will not presume to point out. We will, however, state that, as capital is much wanted by mechanics and manufacturers, a combination of those means, might be attended with salutary effects.

As citizens of the State of Kentucky, permit us to add a few considerations, arising out of the local situation of our country. Kentucky is rich in soil, but remotely situated from the seats of commerce. Her proximity to Indiana and Ohio subjects her to continual drains of treasure for the purchase of the United States' lands. Large sums of money are annually sent off for foreign productions; and the merchants of the United States, who are the real collectors of the revenue, pay our duties to the Treasury. Protected as we are by the strong arm of, and attached to, the Union, with this arrangement we are satisfied. But when the fisheries of New England are not only protected by duties, but encouraged by bounties; when, comparatively speaking, no public moneys are expended here, but all at Washington and on the seaboard, for the support of Government and the protection of a commerce, in which, from our local and insular situation, we cannot participate; we think we have a rightful and just claim to some indemnification; and this can only be given to us by encouraging and protecting our internal industry.

Wherefore, we pray that Congress will take this subject into consideration, and, as in duty bound, we shall ever pray, &c.

LEWIS SANDERS.

And one hundred and twelve others.

SINKING FUND

[Communicated to the Senate, February 4, 1811.]

The Commissioners of the Sinking Fund respectfully report to Congress, as follows:

That the measures which have been authorized by the board, subsequent to their last report, of the 3d of February, 1810, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury, to this board, dated the first day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

G. CLINTON, *President of Senate.*

R. SMITH, *Secretary of State.*

A. GALLATIN, *Sec'y Treasury.*

C. A. RODNEY, *Atty Gen. U. S.*

WASHINGTON, Feb. 2, 1810.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

11th Con. 3d Sess.—41

That the balance of moneys advanced on account of the public debt, remaining unexpended at the close of the year 1808, and applicable to payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to - - - \$651,103 33

Together with the sums disbursed during the year 1809, from the Treasury, on account of the principal and interest of the public debt; which sums, as appears by statement C, annexed to the last annual report, amounted to - - - 6,452,698 52

And amounting, together, to - \$7,103,801 85

Have been accounted for in the following manner:

I. There was repaid into the Treasury, during the year 1809, on account of the principal of moneys heretofore advanced for the payment of the foreign debt, as appears by the statement E, annexed to the last annual report, a sum of - - - \$93 20

II. The sums actually applied during the same year to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by the statement A, to \$6,742,708 97, viz:

1. Paid in reimbursement of the principal of the debt, including the last instalment of the Dutch debt - - - \$3,825,564 06

2. Paid on account of the interest and charges on the public debt 2,917,144 91

6,742,708 97

III. The balance remaining unexpended at the close of the year 1809, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by the statement B, to - - - 360,999 68

\$7,103,801 85

That, during the year 1810, the following disbursements were made out of the Treasury, on account of the principal and interest of the public debt, viz:

I. On account of the interest and reimbursement of the domestic funded debt - - - \$7,157,298 08

II. On account of the interest on the Louisiana stock, and on exchanged and converted stocks, payable in Europe - - - 844,674 35

Amounting, together, as will appear by the annexed list of warrants, marked C, to - - - \$8,001,972 43

Which disbursements were made out of the following funds, viz:

I. From the funds constituting the annual appropriation of eight millions of dollars for the year 1810, viz: From the fund arising from the interest on the debt transferred to the credit of the Commissioners of the

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Sinking Fund, as per statement I -	\$1,646,578 84
From the fund arising from the sales of public lands, being the amount paid into the Treasury from 1st October, 1809, to 30th September, 1810, as per statement K -	672,417 90
From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of vessels -	5,679,915 47
Amounting to -	7,998,912 21
Which sum of -	7,998,912 21
Together with the sum advanced during the year 1809, on account of the appropriation for the year 1810, amounting, as per last annual report, to -	1,087 79
Makes the amount of appropriation for the year 1810 -	\$8,000,000 00

II. From repayments into the Treasury on account of advances to Commissioners of Loans, as will appear by the statement E, viz:

Repayment of principal advanced from the Treasury -	\$2,639 37
Interest recovered -	420 85
	3,060 22
	8,001,972 43

That the above-mentioned disbursements, together with the above stated balance which remained unexpended at the close of the year 1810, of

And amounting, together, to - \$8,362,972 11

Will be accounted for in the next annual report, in conformity to the accounts which shall then have been rendered to the Treasury Department.

That, in the mean while, the manner in which the said sum has been applied is estimated, as follows:

I. The repayments into the Treasury, on account of the principal, have, during the year 1810, amounted, as by the above mentioned statement E, to - \$2,639 37

II. The sums actually applied, during the year 1810, to the principal and interest of the public debt, are estimated as follows:

1. Paid in reimbursement of the principal of the public debt, and including the whole of the exchanged six per cent. stock - \$5,163,476 93
2. Paid on account of interest and charges on the same - 2,698,664 10

As will appear by the estimate F.

III. The balance which remained unexpended, at the close of the year 1810, and applicable to payments falling due after that year, is estimated, per estimate G, at - 498,191 71

\$8,362,972 11

That, in conformity to the resolution of the Commissioners of the Sinking Fund, of April 26th, 1810, there was reimbursed, at the close of the year 1810, the residue of the exchanged six per cent. stock, amounting to \$3,751,125 26; which sum of \$3,751,125 26, forms a part of the sum of \$5,163,476 93, above stated, as the amount of the principal of the public debt reimbursed in the year 1810.

And that the statement H exhibits the amount of stock transferred to the Commissioners of the Sinking Fund, and to the Treasurer of the United States, in trust for said States, and standing to their credit on the books of the Treasury, on the 31st December, 1810, no stocks having been transferred in payment for lands during the year 1810.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, Feb. 1, 1811.

[The tabular statements are omitted.]

SETTLERS ON THE PUBLIC LANDS.

[Communicated to the House, January 9, 1811.]

TREASURY DEPARTMENT, Jan. 7, 1811.

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives of the 17th ultimo, respectfully reports:

That, in conformity with the provisions of the act "to prevent settlements being made on lands ceded to the United States, until authorized by law," the Registers of the land districts east and west of Pearl river, in the Mississippi Territory, were instructed to give public notice of the act, and to invite persons who had settled on the public lands to avail themselves of the permission granted to them by the act to remain as tenants at will, on their signing declarations that they laid no claim to the land. Copy of which instructions (marked A,) is hereto annexed.

That it will appear, from the letter of the Register of the Land Office west of Pearl river, dated 28th of March, 1807, and from the transcripts of permission granted in that district to such settlers, (copies of which, marked B, B 2, and B 3, are hereto annexed,) that they did generally comply with the provisions of the law, and sign the declarations required from them.

That no information of a subsequent date has been received, respecting intrusions on the public lands in that district, nor is it believed that such intruders are numerous, or lay any claim to the land, those only excepted who derive their claim from certain species of British and Spanish grants, on which Congress has not yet made a final decision.

That no returns of permissions granted east of Pearl river were received from the late Register of that Land Office, and that the term for granting them had expired before the present Register was appointed to that office.

That, although no official information has been received by this department respecting the number of intruders, in that district, which includes all the settlements on the river Mobile, it is sufficiently known that they are more numerous than

Settlers on the Public Lands.

in any other part of the Mississippi Territory; but that it has never been suggested that any of them laid any claim to the land.

That the measures taken prior to the year 1810, for carrying the provisions of the law into effect in Madison county, are detailed in the report, made on the 15th day of December, 1809, to the House of Representatives, and which is respectfully referred to.

That, information having been subsequently received that the claim of Michael Harrison, a Yazoo claimant, was revived, and that he remained on the land, the subject was again laid before the President, and the information communicated to the Secretary of War, as will appear by the correspondence, (marked C.)

That, no power being vested in the Secretary of the Treasury, or in any of the land officers, to take any measures for the removal of intruders, the actual orders given in this instance to that effect did not fall within the province of, and were not transmitted by, the Treasury Department.

And that, as it is not made the particular duty of any local officer to enforce the penalties imposed by the law, it necessarily follows that the evil is neither checked in its first beginning, nor known to the Executive, until its magnitude has become such as to require, for its suppression, the application of military force.

All which is respectfully submitted.

ALBERT GALLATIN.

A.

Copy of a letter from the Secretary of the Treasury to Thomas Williams, Esq., Register of the Land Office west, and Nicholas Perkins, Esq., Register of the Land Office east, of Pearl river.

TREASURY DEPARTMENT, *March 28, 1807.*

SIR: I enclose the copy of "An act to prevent settlements being made on lands ceded to the United States, until authorized by law."

It is thereby enacted, 1st. That persons who had settled on the public lands before the passing of the act, March 3, 1807, and did on that day reside on the same, may, by application to the Register, or to the Register's special deputy, obtain, on certain conditions, permission to remain on such lands.

2d. That it shall be lawful for the President of the United States to remove all those who may settle on the land after the passing of the act, or who, being settled previous thereto, shall not, before the 1st day of January next, have obtained permission to remain thereon, in the manner above-mentioned. Penalties, and a forfeiture of any supposed title, are also annexed to the offence, on which I will not dwell, as the first mentioned provisions of the act are those which you are to carry into effect.

You will please to appoint as many persons as you may think fit to receive applications, assigning to each such person a tract, designating, by precise boundaries, either one or more counties, or a certain number of townships, so as to render

the applications easy to each settler. You may reserve to yourself a certain district, in which you may receive the applications yourself, or appoint a person for that district, as will best suit your own convenience.

The persons thus appointed must, as well as yourself, publish the substance of the act, so that the settlers may know generally that they will be removed, and exposed to penalties, if they do not apply for permissions, and that new settlements are altogether prohibited. Whenever an application is made, it should specify, with precision, the tract applied for, (not exceeding three hundred and twenty acres;) and if the land has been surveyed, the application must be for one or two quarter sections, to be specially designated. As, however, from ignorance, the parties may not be able always to do this, they must be assisted by the officer in framing the application; and even informal ones must not, in the first instance, be rejected, provided they state the water-courses on which the land lies, the date of the improvement, and by whom made. At the foot, or on the back of the application, or of the permission hereafter mentioned, the party must sign a declaration in the form annexed, (A):

All the applications received by the persons appointed by you must be transmitted to you, and you will thereupon grant permissions of the form (B); duplicates being signed by the parties, and retained by you.

The applications and permissions must be entered on a book kept for that purpose; but it is not necessary that they should be recorded at large. A register of the form (C) will be sufficient, and by endorsing on each application and permission its number, they may be always referred to from the register.

It is possible, that, from the extent of your district, and the inconvenience and delay arising from double transmission to and from you, of the applications and permissions, you may think it more eligible to authorize at once the persons appointed by you to grant the permissions. This you may do. But in that case, you must transmit to such persons the necessary instructions, and forms B and C; (the form A they must have at all events;) they must sign the permissions in their own names, adding the words "for A B, Register of the Land Office of —;" and they must, on the 1st of January next, transmit to you the Register's applications and duplicates of permissions, signed by the parties. You will, as soon thereafter as may be, state to this Department the number of applications and permissions, and, where the land has been surveyed, transmit a list of the tracts for which permissions have been given.

It may not be improper to remark, that such persons as may have formed settlements subsequent to the date which would entitle them to a right of pre-emption, cannot refuse to sign the required declaration, since they do not lay any claim to the land; and without pretending to encourage their expectations, a cheerful compliance on their part with the law, by signing

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the law, and thus acknowledging themselves to be tenants at will of the United States, would not certainly injure their cause.

As to the persons who, having obtained pre-emptions, wish that they may be converted into donations, it is sufficient to observe, that the present law is inapplicable to them; for their claims being recognised and confirmed as pre-emptions, they cannot be disturbed in their possession, and are positively excepted from the operation of the law.

Congress having directed special reports to be made of all complete British grants, duly filed with the Register, but not confirmed for want of a settlement, before 27th October, 1795, and also of all incomplete titles, which would have been confirmed had they not been granted to minors; these two descriptions of claims must be viewed as being still under the consideration of the Legislature; and claimants of either description, who have, prior to the passing of the present law, made settlements on lands thus claimed, will not be disturbed, though they may not sign the declaration required by the act. The President has also instructed me to say, that a representation having been made to Congress in favor of persons claiming under incomplete Spanish titles, not confirmed for want of actual settlement, on the 27th October, 1795, which representation has not yet been decided upon by that body, he will not order claimants of that description, who have, prior to the passing of the present law, settled on lands thus claimed, to be removed till after the end of the next session of Congress. But this indulgence will not be extended to persons forming settlements after the passing of the act, nor must it, by any means, be construed as giving any sanction whatever to the claim.

It may, perhaps, be useful that the inhabitants of the territory should be made acquainted with the intention of the President, as it relates to these several descriptions of persons.

The certificate, contemplated by the last section of the act, must be expressed in the very words of the act, and will be given by you on the application of either the person acting as marshal, or of the attorney prosecuting for the United States. But as the President has not yet issued any instructions on the subject of removing the intruders, it is not probable that any such application will soon be made. It will be desirable, in the meanwhile, that you should obtain, through the channel of the persons whom you will appoint for the purpose of receiving applications, or in any other way, an estimate of the number of intruders on the public lands in your district, and also whether any of them lay, or pretend to lay, any claim to the land.

And I have to request that you would, from time to time, give information both to this Department and to the officer acting as marshal, of any new intrusions which may take place.

Should any application be made for a lead mine or salt spring, you will be pleased to transmit the same to this office, together with your

opinion of the terms on which it might be proper to lease the same. I am, &c.

(B.)

Copy of a letter from the Register of the Land Office west of Pearl river to the Secretary of the Treasury.

LAND OFFICE WEST OF PEARL RIVER,
August 10, 1807.

SIR: I have delayed acknowledging the receipt of your letter of the 28th March, covering an act for the prevention of settlement on public lands, until I could have it in my power to give you some account of the measures pursued, in order to carry such of the provisions of that law into effect, as appear to have been particularly in your view.

Instead of selecting a number of deputies in the different parts of my district, for the purpose of receiving applications and issuing permissions, I thought it the better course to appoint particular places, along on the frontiers, where I could meet the people in person, and soften, as far as possible, the irritation this law had excited, and to explain away misrepresentations, if any were afloat. I have just returned from this service, and am happy to inform you that the experiment has done justice to my expectations. So far from witnessing any irregularity, I found nothing but a disposition to comply promptly with the law. This is to be attributed, not to my feeble efforts, but to the good sense and temperance of the people, and, above all, to that sound Republican maxim, that a law, although it may be deemed a bad one, is, nevertheless until repealed, sovereign.

It cannot, however, be denied, that they were, and still are, alarmed at some of the provisions of this law; and, indeed, from their situation, it is impossible they should be otherwise. Some of those settlers commenced their improvements three or four years ago, under an impression that the lands would be open for sale in a short time. They have continued to improve from necessity, and are now seriously apprehensive that speculators will compel them to pay for their own labor. Let it be recollected that those settlers were not intruders in the strict sense of the word. In seating themselves on the land, their views were to purchase whenever the United States would sell; and they have been extremely anxious for the arrival of this period. When it is considered that the only boon they ask of the Government, is to purchase for a *bona fide* consideration, I think it may be truly said, they ask but little indeed; and it is to be sincerely regretted that this little should be withheld. I speak with a warmth on this subject which your goodness will excuse. I have been among those people. In them I see industrious citizens, honestly and honorably engaged in the acquisition of a competence for their families, and firmly attached to the principles of our Government. These, sir, are claims to public patronage, which I feel fully persuaded will strike you with equal force. To quiet their fears, and put their anxieties at rest, I

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would respectfully suggest, that a right of pre-emption is the only thing, under all circumstances, calculated to produce those happy effects.

There are a number of settlers on lands which have been adjudged by the commissioners to be antedated grants.

I have declined granting permissions to settlers, until I could receive instructions from you, giving them assurances that those instructions would arrive in time to enable them to comply with the law, if your decision should be that they are within its purview. I shall leave this place the day after to-morrow for Richmond, to attend at Burr's trial; from thence I shall proceed to Washington City. In the meantime, I shall leave my office in the charge of Mr. Parke Walton, whose knowledge of business and zealous fidelity will prevent any public inconvenience from my absence, and will insure a prompt obedience to all instructions which may issue from the Treasury.

I have the honor to be, with high consideration, your most obedient servant,

THOMAS H. WILLIAMS.

A. GALLATIN, Esq., Sec'y of the Treasury.

C.

Correspondence respecting the intruders in Madison county, Mississippi Territory, subsequent to the report of the 15th December, 1809, to the House of Representatives.

Extract of a letter from John Brahan, Esq., Receiver of Public Moneys at Nashville, to the Secretary of the Treasury, dated

APRIL 20, 1810.

The people of Madison county complain very much in having to pay so heavy a land tax this year: the money is to be collected by the 1st September; and, indeed, many of them are almost unable to pay it without inconveniences. The late decision of the Supreme Court has occasioned a great deal of clamor here about Cox's claim. I have assured the people to rest content; that they will keep the land they purchased, in defiance of any other claim; though some of the purchasers are yet uneasy. I went down to Madison county a few weeks ago, to satisfy them as far as I could, which had a good effect; notwithstanding all this, people are entering land in the office here almost every day; resting, very properly, their confidence in the General Government to make them good titles.

Extract of a letter from William Dickinson, Esq., Register of the Land Office at Nashville, to the Secretary of the Treasury, dated

JUNE 9, 1810.

I also enclose an extract of a letter from William H. Winston, Esq., clerk of the county court of Madison. The account he gives has been confirmed by several other letters to the Receiver of Public Moneys and myself.

It appears that many persons have recently purchased from Michael Harrison lands which

have been sold under the authority of the United States.

That some few who had purchased from the United States have, in order to quiet their claim, purchased also from Harrison.

That the purchasers from Harrison have given warning to purchasers from the United States, to give immediate possession; this, I am informed, has given much uneasiness.

Harrison is making considerable sales, and exhibits the late decision in the Supreme Court of the United States, as a confirmation of his title.

I am induced to believe the sales here will be very inconsiderable hereafter. The late decision in the Supreme Court of the United States, viz: Fletcher vs. Peck, has been industriously circulated by the claimants from the State of Georgia, and all possible means made use of to impress on the minds of the people an opinion that this decision completely confirms their title, in opposition to that of the United States.

I am induced to believe that few who have purchased at this office will favor Harrison's claim; but the number of residents without certificates or permission is considerable, and from that class he will draw his principal support.

I propose to attend the court in Madison on the 1st Monday in July. Whatever information I may procure, I shall immediately after my return forward on to you.

Extract of a letter from Wm. H. Winston, Esq., Clerk of Madison County Court, dated

MAY 26, 1810.

At this time, nothing is talked of here but Harrison's claim; a great number of persons have come in from various parts of Virginia and purchased from him, lands previously sold by the United States; and those claimants have ordered off the purchasers under the United States, which has occasioned much uneasiness.

Very little land will be sold, until a change in the public sentiment takes place relative to Harrison's claim, in favor of which I find a very considerable number of the people in this country.

Copy of a letter from the Secretary of the Treasury to the Secretary of War, dated.

JUNE 27, 1810.

SIR: I have the honor to enclose a letter from the Register of the Land Office of Madison county, showing the necessity of an early execution of the intended removal of intruders in that county.

There are two classes of persons, who, according to law, cannot be removed, viz: 1. Those who have purchased lands from the United States. 2. Those who, having signed the requisite declarations, have received written permissions to remain on the land. Although every individual of either description may show evidence, in writing, of his right to remain on the tract he occupies, I have directed copies to be prepared and transmitted to the War Department, of the returns both of sales and permissions. These will facilitate the necessary discrimination; and in order to prevent

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any mistake, William Dickson, Register of the Land Office, and residing at Nashville, will be instructed to furnish the officers commanding the detachment with a supplementary list of the sales subsequent to the returns last received, and with that of persons, if any, who may have obtained permissions, and not been returned to this office.

These observations apply exclusively to persons residing on those lands purchased both from the Cherokees and Chickasaws, which form Madison county. No sale has been made or permission been granted by the United States, to remain on any part of the lands lying west of Madison county, which were ceded by the Cherokees, but are not included in the Chickasaw purchase. I have the honor, &c.

Copy of a letter from the Secretary of the Treasury to the Secretary of War, dated

JULY 2, 1810.

SIR: In conformity with the intimation given in my letter of the 27th ultimo, I have now the honor of transmitting to you lists of those two classes of persons, who, according to law, cannot be removed from the public lands in Madison county. I have the honor, &c.

Extract of a letter from John Brahan, Esq., Register of the Land Office at Nashville, to the Secretary of the Treasury, dated

JUNE 4, 1810.

I am sorry to say that the claim of Zachariah Cox, in Madison county, is making a very considerable noise, and creating much confusion there; Colonel M. Harrison, who yet resides in Madison county, appears to be the principal and most active person in the business. I am informed, by respectable authority, that he is selling out his claim to lands there, and that he has been surveying the lands sold by him under the title of Cox, and, in some instances, the land sold by the United States at the late public sales in this place. If Colonel M. Harrison is permitted to remain in Madison county, it will be productive of great injury to the sales of lands under the United States, for people will thereby be induced to believe that his title to the land is good. It would be well if he could be removed out of the country. A number of people would yet enter land in Madison county, if they could receive positive assurance that they would hold the lands when the last instalment was paid. An assurance of this kind would have a good effect. I have the honor, &c.

P. S. If Government would remove every person out of Madison county, except such as have purchased of the United States, it would be desirable, and would check the growing evil there in its infancy.

Extract of a letter from John Brahan, Receiver of Public Moneys at Nashville, to the Secretary of the Treasury, dated

JUNE 5, 1810.

I wrote you yesterday that Colonel Michael Harrison, claiming under Zachariah Cox, &c., was again selling out lands in Madison county under that title. It is said a number of people have purchased of him, and are settling there: if they are not immediately removed, it may be troublesome to remove them after a while.

Copy of a letter from the Secretary of the Treasury to the Secretary of War, dated

JULY 5, 1810.

SIR: I have the honor to enclose copies of letters, received by this day's mail from the Receiver of Public Moneys at Nashville, in order that it may be submitted to the President, whether a more speedy removal of Michael Harrison and his adherents, than had been contemplated, might not be directed. I have the honor, &c.

Extract of a letter from William Dixon, Register of the Land Office at Nashville, to the Secretary of the Treasury, dated

JULY 30, 1810.

SIR: I herewith enclose the returns for the month of June; a few sales were made during that month; this is to be attributed to the impression made on the minds of the people, by the late decision of the Supreme Court of the United States. The impression is now nearly done away, and the minds of the people generally quieted as to their titles. The speculations also which I noticed in my last are nearly, perhaps entirely, at an end.

Extract of a letter from John Brahan, Esq. to the Secretary of the Treasury, dated

JULY 12, 1810.

I discover that Colonel Harrison's claim, under Cox, is becoming more silent, and people are again entering lands in the office, more briskly than was the case some weeks ago.

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appear and testify under the like penalty, and be liable to be proceeded against in the like manner, as is provided by law, in relation to any witness whose attendance is required in any court of the United States, to give testimony in any matter depending therein.

Approved, January 22, 1811.

An Act making appropriations for the support of the Military Establishment of the United States for the year one thousand eight hundred and eleven.

Be it enacted, &c., That, for defraying the expenses of the Military Establishment of the United States for the year one thousand eight hundred and eleven, for the Indian department, and for the expense of fortifications, arsenals, and armories, the following sums be, and the same hereby are respectively appropriated, that is to say:

For the pay of the Army of the United States, eight hundred and sixty-nine thousand nine hundred and sixty-eight dollars.

For forage, thirteen thousand seven hundred and fifty six-dollars.

For subsistence, six hundred and eighty-five thousand five hundred and thirty-two dollars and five cents.

For clothing, two hundred and ninety-three thousand eight hundred and four dollars.

For bounties and premiums, thirty thousand dollars.

For the medical and hospital department, fifty thousand dollars.

For camp-equipage, fuel, tools, and transportation, two hundred and seventy thousand dollars.

For ordnance, one hundred thousand dollars.

For fortifications, arsenals, magazines, and armories, including two thousand dollars for such a number of additional military storekeepers as may be required, two hundred and seventy-six thousand forty-nine dollars and seventy-six cents.

For purchasing maps, plans, books, and instruments, two thousand five hundred dollars.

For contingencies, fifty thousand dollars.

For the salary of clerks employed in the military agents' offices, and in the office of the inspector of the army, three thousand five hundred dollars.

For the Indian department, one hundred and forty-six thousand five hundred dollars.

Sec. 2. And be it further enacted, That the several sums, specifically appropriated by this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, February 6, 1811.

An Act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and eleven.

Be it enacted, &c., That, for defraying the expenses of the navy of the United States for the year one thousand eight hundred and eleven, the following sums be, and the same are hereby respectively appropriated, that is to say:

For the pay and subsistence of the officers, and pay of the seamen, seven hundred and seventy-four thousand three hundred and ninety dollars.

For provisions, three hundred and eighty-five thousand, three hundred and thirty dollars.

For medicines, instruments, and hospital stores, thirty thousand dollars.

For repairs of vessels, two hundred and fifty thousand dollars.

For freight, store-rent, and all other contingencies, one hundred thousand dollars.

For pay and subsistence of the marine corps, including provisions for those on shore and forage for the staff, one hundred and thirty-eight thousand two hundred and fifty-six dollars and ninety cents.

For clothing for the same, thirty-seven thousand nine hundred dollars and ninety cents.

For military stores for the same, one thousand three hundred and ninety-six dollars and twenty-five cents.

For medicines, medical services, hospital stores, and all other expenses on account of the sick belonging to the marine corps, three thousand dollars.

For quartermasters' and barrackmasters' stores, officers' travelling expenses, armorers' and carpenters' bills, fuel, premiums for enlisting men, musical instruments, bounty to music, and other contingent expenses of the marine corps, fifteen thousand dollars.

For the expenses of navy yards, comprising docks and other improvements, pay of superintendents, storekeepers, clerks, and laborers, seventy-five thousand dollars.

For ordnance and small arms, sixty thousand dollars.

Sec. 2. And be it further enacted, That the several sums, specifically appropriated by this act, shall be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, February 7, 1811.

An Act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana.

Be it enacted, &c., That the following allowances and compensations shall be made to the several officers appointed for the purpose of ascertaining the rights of persons claiming lands in the Territories of Orleans and Louisiana; which allowances and compensation shall be in full for all their services, including those rendered since their salaries respectively ceased, that is to say: To each of the commissioners, and to each of the clerks of the boards, fifty cents for each claim, duly filed according to law, which remained undecided on the first day of July, one thousand eight hundred and nine, and on which a decision has been made subsequent to that day, or shall hereafter be made, whether such decision be in favor or against the claim: which allowance of fifty cents shall be paid at the Treasury of the United States, from time to time, and on receipt of the transcripts of the decisions and of the re-

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ports of claims not finally confirmed, as the same may be transmitted by the boards respectively to the Secretary of the Treasury according to law. To each of the said commissioners and clerks a further allowance of five hundred dollars, to be paid after the completion of the business of each of the boards respectively, to the officers then in office. And to each of the translators, at the rate of six hundred dollars a year, and not to exceed in the whole for each the term of eighteen months: *Provided always*, That the above mentioned allowance of fifty cents for each claim decided upon, shall not be made to any of the commissioners who may be absent at the time of such decision; the attendance of each to be certified by the clerk, or by a majority of the board: *And provided also*, That no allowance shall be made to any agent heretofore employed by the Secretary of the Treasury, for any period of time subsequent to the time when such agent ceased to act, or when the board ceased to receive evidence.

SEC. 2. *And be it further enacted*, That the two principal deputy surveyors of the Territory of Orleans shall, and they are hereby authorized, in surveying and dividing such of the public lands in the said Territory, which are or may be authorized to be surveyed and divided, as are adjacent to any river, lake, creek, bayou, or water course, to vary the mode heretofore prescribed by law, so far as relates to the contents of tracts, and to the angles and boundary lines, and to lay out the same into tracts as far as practicable, of fifty-eight poles in front and four hundred and sixty-five poles in depth, of such shape, and bounded by such lines as the nature of the country will render practicable, and most convenient: *Provided, however*, That such deviations from the ordinary mode of surveying shall be made with the approbation of, and in conformity with, the general instructions which may be given to that effect by the surveyor of the public lands south of the State of Tennessee.

SEC. 3. *And be it further enacted*, That, for the disposal of the lands of the United States lying in the eastern land district of the Territory of Orleans, a land office shall be established at New Orleans; and that for the disposal of the lands of the United States lying south of Red river, in the western land district of the Territory of Orleans, a land office shall be established at Opelousas; and that for the disposal of the lands of the United States lying north of Red river, in the Territory of Orleans, a land office shall be established, which shall be kept at such place as the President of the United States may direct. The register of the western land district of the Territory of Orleans shall act as register of the land office of Opelousas, and as one of the commissioners for ascertaining the rights of persons claiming lands in any part of the said western land district. And for the land office north of the Red river, a register, and for each of the said three offices, a receiver of public moneys shall be appointed, who shall give security in the same manner, in the same sums, and whose compensa-

tions, emoluments, duties, and authority, shall in every respect be the same, in relation to the lands which shall be disposed of at their offices, as are or may be provided by law, in relation to the registers and receivers of public moneys in the several offices established for the disposal of the lands of the United States in the Territory of Mississippi.

SEC. 4. *And be it further enacted*, That the powers vested in the President of the United States by the eleventh section of the act, entitled "An act supplementary to an act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the district of Louisiana,'" passed on the twenty-first day of April, one thousand eight hundred and six, in relation to the public lands lying in the western district of the Territory of Orleans, and all the other provisions made by the same section, for the sale of the said lands, and for obtaining patents for the same, shall be and the same are hereby in every respect extended to the public lands lying in the eastern district of the Territory of Orleans.

SEC. 5. *And be it further enacted*, That every person who, either by virtue of a French or Spanish grant, recognised by the laws of the United States, or under a claim confirmed by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans, owns a tract of land bordering on any river, creek, bayou, or water-course, in the said Territory, and not exceeding in depth forty arpens, French measure, shall be entitled to a preference in becoming the purchaser of any vacant tract of land adjacent to, and back of, his own tract, not exceeding forty arpens, French measure, in depth, nor in quantity of land, that which is contained in his own tract, at the same price, and on the same terms and conditions, as are, or may be provided by law for the other public lands in the said Territory. And the principal deputy surveyor of each district respectively, shall be and he is hereby authorized, under the superintendence of the surveyor of the public lands south of the State of Tennessee, to cause to be surveyed the tracts claimed by virtue of this section; and in all cases where, by reason of bends in the river, lake, creek, bayou, or water course, bordering on the tract, and of adjacent claims of a similar nature, each claimant cannot obtain a tract equal in quantity to the adjacent tract already owned by him, to divide the vacant land applicable to that object between the several claimants, in such manner as to him will appear most equitable: *Provided, however*, That the right of pre-emption, granted by this section, shall not extend so far in depth, as to include lands fit for cultivation, bordering on another river, creek, bayou, or water course. And every person entitled to the benefit of this section shall, within three years after the date of this act, deliver to the register of the proper land office, a notice in writing, stating the situation and extent of the tract of land he wishes to purchase, and shall also make the payment and

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payments for the same, at the time and times which are or may be prescribed by law for the disposal of the other public lands in the said Territory: the time of his delivering the notice aforesaid, being considered as the date of the purchase. And if any such person shall fail to deliver such notice within the said period of three years, or to make such payment or payments at the time above-mentioned, his right of pre-emption shall cease and become void; and the land may thereafter be purchased by any other person in the same manner and on the same terms as are or may be provided by law for the sale of other public lands in the said Territory.

SEC. 6. *And be it further enacted*, That the land offices established by virtue of the fourth section of this act, shall be opened on the first day of January, one thousand eight hundred and twelve, for the sale of all the public lands, with the exception of section "number sixteen," of the salt springs, and land contiguous thereto, and of the tracts reserved for the support of seminaries of learning, as hereinafter provided, which shall have been previously surveyed and the surveys thereof returned according to law to the registers of the land offices respectively; and on the first day of February, one thousand eight hundred and twelve, for the sale of such of the public lands, which, from the nature of the country, cannot be surveyed in the ordinary way, and are embraced by the provisions of the third section of this act, as shall have, at least six weeks previous to the said first day of February, one thousand eight hundred and twelve, been advertised for sale by the surveyor of the public lands south of the State of Tennessee, with the approbation of the President of the United States. The public sales for the lands, subdivided into quarter sections in the ordinary way, shall be held for one calendar month, under the superintendence of the register and receiver of each land office respectively, and of either of the surveyors of public lands south of Tennessee, or of his principal deputy surveyor in the district, who shall each receive six dollars for each day's attendance on the same; and no tract of land shall be sold at said public sales, for a less price than that which is or may be prescribed by law for the sale of public lands in the Mississippi Territory. And, from and after the first day of February, one thousand eight hundred and twelve, any tract which has been thus offered for sale at public sale, and remains unsold, as well as any tract of land embraced by the provisions of the third section of this act, the sale of which is authorized by this section, may be disposed of at private sale by the register of the land office, for the same price which is or may be prescribed by law, for the sale of the public lands in the Mississippi Territory. All the lands, sold [by] virtue of this section, shall in every other respect be sold on the same terms of payment and conditions, in the same manner, and under the same regulations, as are or may be prescribed by law, for the sale of public lands in the Mississippi Territory: *Provided, however*. That in case of an application being made at the same time, for the

purchase at private sale of the same tract of land by two or more persons, one of whom did actually inhabit and cultivate such tract of land at the time of passing this act, and still continues to inhabit and cultivate the same at the time of such application, the preference shall be given to the person thus inhabiting and cultivating such tract of land: *And provided, also*, That, till after the final decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been in due time, and according to law, presented to the register of the land office, and filed in his office, for the purpose of being investigated by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans, or which shall have been located by or for Major General Lafayette, according to law.

SEC. 7. *And be it further enacted*, That, in addition to the township already reserved for that purpose by law, in the western district of the Territory of Orleans, and which shall be located south of Red river, another entire township shall be located by the Secretary of the Treasury north of Red river, for the use of a seminary of learning, and also an entire township in the Territory of Louisiana, for the support of a seminary of learning within the said Territory.

SEC. 8. *And be it further enacted*, That the surveyor general shall cause such of the public lands in the Territory of Louisiana as the President of the United States shall direct, to be surveyed and divided in the same manner and under the same regulations and limitations as to expenses, as is provided by law in relation to the lands of the United States northwest of the river Ohio, and above the mouth of Kentucky river.

SEC. 9. *And be it further enacted*, That, for the disposal of the lands of the United States lying in the Territory of Louisiana, a land office shall be established, which shall be kept at such place as the President of the United States may direct; and a register and receiver of public moneys shall be appointed for said office, who shall give security in the same manner, in the same sums, and whose compensations, emoluments, duties, and authority, shall, in every respect, be the same, in relation to the lands which shall be disposed of at their office, as are or may be provided for by law, in relation to the register and receiver of public moneys in the several offices established for the disposal of the lands of the United States northwest of the river Ohio, and above the mouth of Kentucky river.

SEC. 10. *And be it further enacted*, That the President of the United States be and he is hereby authorized, whenever he shall think proper, to direct so much of the public lands lying in the Territory of Louisiana, as shall have been surveyed in conformity with the ninth section of this act, to be offered for sale. All such lands shall, with the exception of the section "number sixteen," which shall be reserved in each township for the support of schools within the same, with exception also of a tract reserved for the support

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of a seminary of learning, as provided for by the eighth section of this act, and with the exception also of the salt springs, and lead mines, and lands contiguous thereto, which, by the direction of the President of the United States, may be reserved for the future disposal of the said States, shall be offered for sale to the highest bidder, under the direction of the register of the land office, and the receiver of the public moneys, and of the principal deputy surveyor, and on such day or days as shall, by public proclamation of the President of the United States, be designated for that purpose. The sales shall remain open for three weeks, and no longer. The lands shall be sold for a price not less than that which has been or may be fixed by law for the public lands northwest of the river Ohio, and above the mouth of Kentucky river. And shall in every other respect be sold in tracts of the same size, on the same terms and conditions, as have been or may be by law provided for the lands sold in the State of Ohio. The superintendents of the said public sales shall each receive six dollars for each day's attendance on the said sales. All the lands which have been thus offered for sale, at public sale, remaining unsold at the closing of the public sales, may be disposed of at private sale by the register of the land office, for the same price which is or may be prescribed by law for the sale of public lands in the State of Ohio: *Provided, however,* That, till after the decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been in due time and according to law presented to the recorder of land titles in the district of Louisiana, and filed in his office, for the purpose of being investigated by the commissioners appointed for ascertaining the rights of persons claiming lands in the Territory of Louisiana. And patents shall be obtained for all lands sold in the Territory of Louisiana, in the same manner and on the same terms as is or may be provided, by law, for land sold in the State of Ohio.

SEC. 11. *And be it further enacted,* That the claim of the Corporation of the City of New Orleans, to the common adjacent thereto, and within six hundred yards from the fortifications of the same, as confirmed by the act, entitled "An act respecting claims to lands in the Territories of Orleans and Louisiana," shall be deemed valid, although the relinquishment of the said corporation to any claim beyond the said distance of six hundred yards, was not made till after the expiration of the period of six months, prescribed by the act last mentioned.

SEC. 12. *And be it further enacted,* That all navigable rivers and waters in the Territories of Orleans and Louisiana, shall be, and forever remain, public highways.

SEC. 13. *And be it further enacted* That a sum not exceeding forty thousand dollars be, and the same is hereby appropriated, for the purpose of carrying this act into effect, which sum shall be paid out of unappropriated moneys in the Treasury.

Approved, February 15, 1811.

An Act concerning the Bank of Alexandria.

Be it enacted, &c., That the corporation heretofore created by the name and style of the President, Directors, and Company of the Bank of Alexandria, by an act of the Legislature of the Commonwealth of Virginia, passed in the year seventeen hundred and ninety-two, entitled "An act for establishing a bank in the town of Alexandria;" the capital stock of which said bank hath been increased to five hundred thousand dollars; and which said corporation was, by an act of the said Commonwealth, passed in the year eighteen hundred and one, continued until the fourth day of March, eighteen hundred and eleven, be, and the said corporation shall, by the name and style aforesaid, be further continued from the fourth day of March next, until the fourth day of March, eighteen hundred and twenty-one, subject to the regulations prescribed by and made in the manner provided by this act.

SEC. 2. *And be it further enacted,* That the said corporation shall, by the name and style of the President, Directors, and Company of the Bank of Alexandria, be capable in law to hold, have, and purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature, or quality soever; and the same to grant, demise, alien or dispose of; and, by the name aforesaid, may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any court of record within the United States; and may do and execute every other matter and thing by the name aforesaid, that they are authorized to do by virtue of this act: *Provided always,* That the lands, tenements, and hereditaments, which it shall be lawful for the president, directors, and company to hold, shall be only such as shall be requisite for their immediate accommodation, in relation to the convenient transacting their business, and such as shall have been *bona fide* mortgaged to them by way of security, or conveyed to them in satisfaction for debts previously contracted in the course of their dealings: *Provided also,* That the president and directors shall not purchase any goods, chattels, or effects, unless such as are sold by virtue of an execution, upon judgments obtained by them, except such articles as may be necessary for them in transacting the business of the bank; but it shall be lawful for them to receive and hold such securities, goods, chattels, and effects, by way of deposit for advances made by them to any person or persons, and, on failure of payment, the same to sell and dispose of at public sale.

SEC. 3. *And be it further enacted,* That the capital stock of the said bank shall consist of five hundred thousand dollars, in shares of two hundred dollars each.

SEC. 4. *And be it further enacted,* That every stockholder shall be entitled to vote by himself, his agent, or proxy, appointed under his hand and seal, at all elections, by virtue of this act; and shall have as many votes as he has shares, as far as ten shares, and not more than one vote for every

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share thereafter; and every stockholder may sell and transfer his stock in the bank, or any part thereof, at his pleasure, not being less than one complete share or shares; the transfer to be made in the bank books, in the presence, and with the approbation of the proprietor or his lawful attorney, and the purchaser then to be entitled, to all the rights which the original proprietor enjoyed.

SEC. 5. *And be it further enacted,* That a meeting of the stockholders, at the town of Alexandria, shall be held annually, on the third Monday of January, in every year, during the continuance of this act; previous notice whereof shall be published in some newspaper, printed in Alexandria, Richmond, Winchester, or the City of Washington, for the space of four weeks successively; and the stockholders, assembled in consequence of such notice, shall choose by ballot, from among themselves, by a majority of votes of such as shall be present, or by proxy, nine directors, being citizens of the United States, for the term of one year thereafter; and on the same day annually, for and during the continuance of this act, a like election shall be made; and in case of refusal, death, resignation, disqualification or removal out of the District of Columbia, of any director, the remaining directors, at their next meeting thereafter, shall elect by ballot another person, qualified as aforesaid, in his place, for the residue of the year. The directors or any seven of them, shall, at their first meeting after every general election, elect by a majority of members present, by ballot, from among the stockholders, a president, who shall, whether a director or not, be thereupon entitled to all the powers and privileges of one; and if he was before a director another director shall be elected as aforesaid, so as to keep up the number of directors, prescribed by this act, exclusively of the President; and in case of refusal, death, resignation, or removal, out of the district aforesaid, of the president, the directors shall meet as soon as conveniently can be thereafter, and elect another person for president, in manner before directed.

SEC. 6. *And be it further enacted,* That there be a meeting of the directors quarterly, for the purpose of regulating the affairs of the bank, any five of whom shall make a board; and that the board have power to adjourn from time to time; and the president, or any three of the directors, may call a special meeting at any other time they may think necessary.

SEC. 7. *And be it further enacted,* That the board of directors shall determine the manner of doing business, and the rules and forms to be pursued; appoint and pay the various officers which they may find necessary; and dispose of the money and credit of the bank, at a rate not exceeding six per centum per annum; and make half yearly dividends of the profits, or of such part thereof as they may think prudent.

SEC. 8. *And be it further enacted,* That, in the appointment of cashier of the said bank, a majority of the votes of seven directors shall be necessary to a choice.

SEC. 9. *And be it further enacted,* That the

board shall, at every quarterly meeting, choose three directors, to inspect the business of the bank, for the ensuing three months; and the inspectors so chosen, or any two of them, shall, on the evening of every Saturday, examine into the state of the cash account, and all the notes received and issued, and see that those accounts are regularly balanced and transferred.

SEC. 10. *And be it further enacted,* That any director, officer, or other person holding any share or capital of the said stock, who shall commit any fraud or embezzlement, touching the money or property of the said bank, shall be liable to be prosecuted in the name of the United States, by indictment for the same, in any court of law in the district wherein the offence shall be committed; and, upon conviction thereof, shall, besides the remedy that may be had by action, in the name of the President, Directors, and Company of the Bank of Alexandria, for the fraud aforesaid, forfeit all his share and stock in the said bank to the company.

SEC. 11. *And be it further enacted,* That it shall not be lawful for the bank hereby incorporated to loan, by discount or otherwise, more than twice the amount of its capital stock actually paid in.

SEC. 12. *And be it further enacted,* That no stockholder or member of the said company shall be answerable for any loss, deficiencies, or failure of the capital stock of said bank, for any more or larger sum or sums of money whatsoever, than the amount of the stock, stocks, or shares, which shall appear by the books of the said company to belong to him at the time or times when such loss or losses shall be sustained, except as is hereafter excepted, that is to say: if the total amount of debts, which the said company shall at any time owe, whether by bond, bill, note, or other contract, shall exceed double the amount of capital stock of the said bank actually paid in, over and above the moneys actually deposited in the bank for safe-keeping, then in case of such excess, the directors under whose administration it shall happen, shall be liable for such excess, in their natural and private capacities; and an action or actions of debt may be brought against them, or any of them, their heirs, executors, or administrators, in any court of record within the United States, by any creditor or creditors of the said company, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said body politic, or the lands, tenements, goods, and chattels of the same, from being liable for, and chargeable with, the said excess. Such of the directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may, respectively, exonerate themselves from being so liable by forthwith giving notice of the fact, and of his absence or dissent, to the Mayor of the town of Alexandria, for the time being, and to the stockholders, at a general meeting which he or they

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shall have power to call for that purpose. And in case the directors, by whose act such excess shall be occasioned, shall not have property sufficient to pay the amount of such excess, then each and every stockholder shall be liable in their private capacities for the deficiency, in proportion to their respective shares in said bank.

SEC. 13. *And be it further enacted*, That the president and directors shall not issue any note for a smaller sum than five dollars; and the president and directors shall, once in every year, lay before the Secretary of the Treasury an account, truly stating the situation of the bank, and its funds, if required.

SEC. 14. *And be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by a majority of the stockholders at a general meeting. The directors shall make such compensation to the president, for his extraordinary services and attendance at the bank, as shall appear to them reasonable.

SEC. 15. *And be it further enacted*, That none but a stockholder, being a resident of the District of Columbia, shall be eligible as a president or director.

SEC. 16. *And be it further enacted*, That every cashier or treasurer, before he enters upon the duties of his office, shall give bond, with two or more securities, to the satisfaction of the directors, for his good behaviour in office.

SEC. 17. *And be it further enacted*, That in case it shall at any time happen, that an election of directors shall not be made on any day when, pursuant to this act, it ought to be made, it shall and may be lawful on any other day to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of the said president and directors.

SEC. 18. *And be it further enacted*, That process of law, served on the president for the time being, shall be deemed sufficient service, and shall avail in like manner, as if it had been served on all the directors, to the intent and purpose of making the said corporate company responsible.

SEC. 19. *And be it further enacted*, That whenever any note shall be given, containing express consent in writing, that it may be negotiable at the said bank, and the same shall be endorsed, if payment be refused or neglected to be made, at the time it shall have become due, the like proceedings are to be had out of court, and suit may be prosecuted against the drawer and endorser, jointly or separately, in like manner as if the same was a bill of exchange.

SEC. 20. *And be it further enacted*, That the said bank shall continue to transact its business of discount and deposit in the county of Alexandria, in the District of Columbia.

Approved, February 15, 1810.

An Act to incorporate the Bank of Washington.

Be it enacted, &c., That, from and after the fourth day of March, which will be in the year of our Lord one thousand eight hundred and eleven,

all those persons, their legal representatives or assigns, who on the first Monday of September, in the year of our Lord one thousand eight hundred and nine, at the City of Washington, subscribed certain articles of association, and formed a company or limited partnership, under the name and style of "The President and Directors of the Bank of Washington," and who, on the said fourth day of March, in the year eighteen hundred and eleven, shall hold any share of the joint stock or funds, created in pursuance of the said articles of association, and their successors, being stockholders as aforesaid, shall be, and they are hereby, incorporated, and made a body corporate and politic, by the name and style of "The President and Directors of the Bank of Washington;" and by that name may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record and any other place whatsoever; and by that name may have and hold, purchase, receive, possess, enjoy, and retain lands, rents, tenements, hereditaments, goods, chattels, and effects, of what nature, kind, or quality soever; and the same sell, grant, demise, alien, and dispose of; and by that name shall have succession, during the continuance of this act, and may make, have, and use a common seal, and the same may break, alter, and renew at pleasure; and shall have power to ordain, establish, and put in execution, such by-laws, ordinances, and regulations as shall seem necessary and convenient for the government of the said corporation, not being contrary to law, nor to the constitution thereof; and, generally, to do and execute all acts necessary or proper for the objects of the said incorporation, subject to the rules, regulations, restrictions, limitations, and provisions herein described and declared.

SEC. 2. *And be it further enacted*, That the capital stock of the said bank shall consist of five hundred thousand dollars, money of the United States, to be divided into shares of twenty dollars each; of which, ten dollars on each share will, according to the articles of association aforesaid, have been paid before the said fourth day of March, eighteen hundred and eleven; and it shall be optional with any stockholder thereafter to fill up his or her share or shares, by the payment, at any one time, of the residue of the money due thereon, who shall thereupon be entitled to receive dividends in future, in proportion to the whole amount paid upon such share or shares: *Provided*, That the dividend or dividends, on such sums of money so paid, shall not commence until the first day of the month next ensuing such payment.

SEC. 3. *And be it further enacted*, That the said bank shall transact its business in the City of Washington.

SEC. 4. *And be it further enacted*, That the affairs of the bank shall be conducted by twelve directors and a president, whose place, if chosen from among their number, shall be supplied by that body. Six of the directors, with the president, shall form a board or quorum for transacting all the business of the company. In case of

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his sickness or necessary absence, his place may be supplied by any director, whom he, by writing under his hand, may nominate for that purpose; or, in case of his not making such nomination, the board may appoint a president to act during his absence. The president and directors who may be in office, under the said articles of association, on the said fourth day of March, eighteen hundred and eleven, shall continue in office under and by virtue of this act of incorporation, until others shall be duly chosen in their stead. No person shall be a director or president who is not a citizen of the United States and a stockholder; and a director ceasing to be a stockholder shall cease to be a director. And no person, a director of another bank, shall be a director of this bank. Every stockholder, being a citizen of the United States, shall be entitled to vote at all elections to be holden by the stockholders, in pursuance of this act, and shall have as many votes, in proportion to the stock he may hold, as follows: for one share, and not exceeding two shares, one vote each; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; and for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above that number, one vote. But no person or persons, bodies corporate, or otherwise, shall be entitled to more than fifty votes. But no stockholder shall be permitted to vote, who has not held his stock two calendar months prior to the day of election. All stockholders, living in the City of Washington, shall vote in the choice of directors by ballot in person; but every stockholder, living out of said city, may vote in person or by a written ballot by him or her subscribed with his or her name, and duly acknowledged before a judge of a court, a justice of the peace, or a notary public: a certificate whereof shall be made on said ballot by the judge, justice of the peace, or notary public, before whom such acknowledgment shall be made, and said ballot shall by him be sealed up, and addressed to the cashier of the bank; and being transmitted before the time of the election, shall be received and counted in the election. No person who is not a citizen of the United States shall be entitled to vote in any election of this corporation. *Provided nevertheless*, That this section may at any time hereafter be altered or amended by Congress, in such manner as they may see fit, so as to provide for an annual rotation of the directors.

SEC. 5. *And be it further enacted*, That a general meeting of the stockholders of the said bank shall be holden on the first Monday of January, in the year eighteen hundred and twelve, and on the first Monday of January in every year thereafter, at such place as the president and directors shall appoint, by giving four weeks notice in one or more of the newspapers of the City of Washington, for the purpose of electing directors for the ensuing year, who shall meet on the day succeeding their election, and shall immediately

proceed to choose a president; and the president and directors for the time being shall continue in office until others shall be duly elected in their places, and be organized by the assembling of a quorum, and the choice of a president. At all elections the persons having the greatest number of votes shall be deemed to be chosen. All elections shall be held under the superintendence of the president of the bank for the time being and four stockholders, not being at the time directors, appointed by the board of directors, any three of whom shall be judges thereof. They shall immediately thereafter notify the persons elected to meet the ensuing day at the bank, and shall make a return of the persons elected at their first meeting. Should two or more persons have an equal number of votes, the other individuals elected directors shall determine by ballot from among said persons, who shall be the director or directors. All elections shall be opened at ten o'clock in the forenoon, and closed at three in the afternoon.

SEC. 6. *And be it further enacted*, That the president and directors shall have full power to make, revise, alter, and annul all such rules, orders, by-laws, and regulations, for the government of the said corporation, and that of its officers, servants, and affairs, as they shall, from time to time, think expedient; and to use, employ, and dispose of the capital stock, funds and property of the said bank, for the interest and benefit of the stockholders, subject only to the restrictions herein contained; but the said bank shall not take, for discounting any bill or note, more than at the rate of six per cent. per annum, upon the amount due by such bill or note.

SEC. 7. *And be it further enacted*, That all promissory notes, bills of exchange, drafts, checks, and receipts, for the payment of money, made on behalf of the said bank, signed by the president, and countersigned or attested by the cashier, shall be obligatory upon the said body corporate, and shall possess the like qualities as to negotiability, and the holders thereof shall have the like actions thereupon, as if such promissory notes, bills of exchange, drafts, checks, or receipts, had been made by or on behalf of a natural person.

SEC. 8. *And be it further enacted*, That the books, papers, correspondence, and funds of the bank, shall at all times be subject to the inspection of the directors. And the said president and directors shall once in every year cause to be laid before the Secretary of the Treasury of the United States an account truly stating the situation of the bank and its funds.

SEC. 9. *And be it further enacted*, That the said president and directors shall have power to appoint a cashier, and all other officers and servants, for executing the business of the said bank, and to establish the compensation to be made to the president and all other officers and servants of the said bank respectively. But no compensation shall be given to a director for his services, except by a vote of the stockholders in general meeting.

SEC. 10. *And be it further enacted*, That the

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president and directors shall have power to call a general meeting of the stockholders, for purposes concerning the interests of the bank, giving at least six weeks notice in one or more of the newspapers of the City of Washington, specifying in such notice the object or objects of such meeting.

SEC. 11. *And be it further enacted*, That the shares of capital stock, at any time owned by any individual stockholders, shall be transferable only on the books of the bank, according to such rules as may, conformably to law, be established in that behalf by the president and directors; but all debts actually due and payable to the bank (days of grace for payment being past) by a stockholder, requesting a transfer, must be satisfied before such transfer shall be made, unless the president and directors shall direct to the contrary.

SEC. 12. *And be it further enacted*, That the dividends of the profits of the company, or so much of said profits as shall be deemed expedient and proper, shall be declared half yearly, in the first week in May and November, in each year; the amount of said dividend shall, from time to time, be determined by the president and directors, and shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock of the said company shall never be impaired by dividends.

SEC. 13. *And be it further enacted*, That the said bank shall not at any time discount or loan a greater sum than double the amount of the capital stock thereof, which shall be actually paid in.

SEC. 14. *And be it further enacted*, That if the said directors shall at any time wilfully and knowingly make or declare any dividend, which shall impair the said capital stock, all the directors present at the making or declaring of said dividend, and consenting thereto, shall be liable in their individual capacities to the company for the amount or proportion of said capital stock so divided by the said directors; and each director, who shall be present at the making or declaring such dividend, shall be deemed to have consented thereto, unless he shall immediately enter, in writing, his dissent on the minutes of the proceedings of the board, and give notice thereof to the Secretary of the Treasury of the United States.

SEC. 15. *And be it further enacted*, That the bank shall in no case be owners of any ships or vessels, or directly or indirectly be concerned in trade, or the importation or exportation, purchase, or sale, of any goods, wares, or merchandise, whatever, except bills of exchange, bullion, stock of the United States, or of incorporated institutions, and such ships, vessels, goods, wares, or merchandise, as shall be truly pledged to them by way of security for debts due, owing or growing due to the said bank, or purchased by it to secure such debts.

SEC. 16. *And be it further enacted*, That the bank shall not purchase or hold any lands, tenements, or other real estates, other than what may

be necessary for the convenient transaction of its business, unless such lands, tenements, and real estates shall have been *bona fide* mortgaged to the bank by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of dealings, or purchased to secure debts, contracted with or due to the bank; and in every instance in which the bank may become the owners or claimants of lands, tenements, or real estates, the president and directors are empowered to sell or dispose of the same, in such manner as they may deem beneficial for the said bank.

SEC. 17. *And be it further enacted*, That if any vacancy shall at any time happen among the directors by death, resignation, or otherwise, the rest of the directors, for the time being, shall elect a director to fill the vacancy.

SEC. 18. *And be it further enacted*, That any number of stockholders, who shall be proprietors of not less than two thousand shares, may, for any purpose relative to the institution, at any time apply to the president and directors to call a general meeting of the stockholders, and if by them refused, the said number of stockholders, proprietors of not less than the number of shares aforesaid, shall have power to call a general meeting of the stockholders, giving at least sixty days notice in one or more of the public newspapers of the City of Washington, specifying in such notice the object or objects of such call.

SEC. 19. *And be it further enacted*, That the total amount of the debts, which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed twice the amount of their capital stock actually paid over and above the moneys then actually deposited in the bank for safe keeping. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same, in their natural and private capacities; and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court proper to try the same, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt said corporation, or the lands, tenements, goods, or chattels of the same from being also liable for and chargeable with said excess. Such of said directors who may have been absent when said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable by forthwith giving notice of the fact, and of their absence or dissent, to the Secretary of the Treasury of the United States, and to the stockholders, at a general meeting which they shall have a power to call for that purpose; and the body corporate, hereby created, and the capital stock thereof, shall be liable for all the debts and engagements contracted, or which, before or on the said fourth day of March, in the year eighteen hundred and eleven, shall be contracted by the company or co-partnership here-

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tofore created by the articles of association herein before mentioned, and which carried on the banking business under the name and style of "The President and Directors of the Bank of Washington;" and the creditors of the said copartnership shall have the like remedy by action, against the said body corporate, as they had or have, or may or can have, against the said co-partnership.

SEC. 20. *And be it further enacted*, That in case it should at any time happen, that an election of directors should not be made on any day when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors, at a meeting to be called, in such manner as shall be prescribed by the laws and ordinances of the said corporation.

SEC. 21. *And be it further enacted*, That this act shall, to all intents and purposes, be deemed and held a public act, and be and continue in force for the term of ten years, from and after the fourth day of March, which will be in the year of our Lord one thousand eight hundred and eleven, and no longer.

Approved, February 15, 1811.

An Act to incorporate the subscribers to the Farmers' Bank of Alexandria.

Be it enacted, &c., That the present subscribers to the Farmers' Bank of Alexandria, as well as those who shall hereafter become subscribers to the same, their successors and assigns, shall be, and they are hereby created a corporation and body politic by the name and style of the Farmers' Bank of Alexandria; and by that name and style shall be and are hereby made able and capable in law to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, hereditaments, goods, chattels, and effects, of what kind, nature, or quality soever: and the same to sell, grant, demise, alien, or dispose of; to sue and be sued, plead and be impleaded, answer, and be answered, defend and be defended, in courts of record or any other place whatsoever, subject nevertheless to the rules, regulations, restrictions, limitations, and provisions hereinafter prescribed and declared.

SEC. 2. *And be it further enacted*, That the capital stock of said corporation may consist of five hundred thousand dollars, divided into shares of fifty dollars each; and subscriptions, towards filling up the remaining part of said stock not already subscribed, may be opened by the president and directors of the bank, at such times and places, and under such regulations, as they shall direct; and it shall be lawful for any person, a citizen of the United States, to subscribe; and it shall be the duty of the president and directors to give notice in two newspapers, or more, published in the District of Columbia, of the times and places of opening such subscriptions, at least thirty days previous thereto; and each of said subscriptions shall be kept open one day at least, and such further time as said directors may order.

SEC. 3. *And be it further enacted*, That the lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transaction of its business, and such as shall have been conveyed to it, in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales on judgments, which shall have been obtained for such debts; nor shall this corporation directly or indirectly deal in or trade in anything, except bills of exchange, gold or silver bullion; or in the sale of goods, really and truly pledged for money lent, and not redeemed in due time; or of goods sold by virtue of an execution, on a judgment obtained by them.

SEC. 4. *And be it further enacted*, That, for the well ordering the affairs of the said corporation, there shall be thirteen directors, of whom there shall be an election on the first Monday in January, in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by plurality of the votes actually given; and those who shall be duly chosen at any election shall be capable of serving as directors, by virtue of such choice, until the end or expiration of the Monday of January next ensuing the time of such election, and until others shall be chosen. But the first election of directors under this act shall not take place until the first Monday in January, in the year one thousand eight hundred and twelve; and the said directors, at their first meeting after each election, shall choose one of their number as president. No person, a director of another bank, shall be a director of this bank: *Provided*, That in case it should at any time happen, that an election of directors should not be made upon any day, when pursuant to this act it ought to have been made, the corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day, within fifteen days thereafter, to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of said corporation.

SEC. 5. *And be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The directors shall make such compensation to the president, for his extraordinary attendance at the bank, as to them shall appear reasonable.

SEC. 6. *And be it further enacted*, That the directors for the time being shall have power to appoint such officers and servants under them, as may be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall seem reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the affairs of the said corporation as shall be described, fixed, and determined by the laws, regulations, and ordinances of the same.

SEC. 7. *And be it further enacted*, That the pres-

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ident and directors shall determine the manner of doing business, and the rules and forms to be pursued, and dispose of the money and credit of the bank in such manner as shall seem to them best calculated to promote the interest of the proprietors.

SEC. 8. *And be it further enacted*, That stockholders shall vote at all elections for directors, by ballot, in person, except those who shall reside out of the town of Alexandria, who may vote either in person, or by a written ballot, by him or her subscribed with his or her name, and duly acknowledged before a judge of a court, a justice of the peace, or notary public; a certificate whereof shall be made on said ballot, by the said judge, justice of the peace, or notary public, before whom such acknowledgement shall be made, and the said ballot shall be sealed up and directed to the cashier of the bank; and being transmitted to said cashier, before the time of the election, shall be received and counted in the choice of directors. No share or shares shall confer a right of suffrage, which shall not have been holden two calendar months previous to the day of election; and the number of votes to which each stockholder shall be entitled shall be in proportion to the number of shares he shall hold, as follows: For one share, and not exceeding two shares, one vote each; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above that number, one vote; but no person or persons, bodies corporate or otherwise, shall be entitled to more than fifty votes: *Provided*, That this section may at any time hereafter be altered or amended by Congress, in such manner as they may see fit, so as to provide for an annual rotation of directors.

SEC. 9. *And be it further enacted*, That one month previous to each election of directors, the cashier shall cause to be made out a correct list of all the stockholders, which shall be subject to the inspection of any stockholder.

SEC. 10. *And be it further enacted*, That no person shall be eligible to hold the office of president or director, who is not a citizen of the United States, and a *bona fide* stockholder.

SEC. 11. *And be it further enacted*, That a majority of the whole number of directors shall be necessary in the choice of a president and cashier; but three members, with the president, may constitute a board for transacting the ordinary business of the bank.

SEC. 12. *And be it further enacted*, That the president and directors shall, as soon as they may deem it expedient, declare a dividend of profits; and every half year thereafter, shall make and declare such dividends of profit as they may deem proper; but no dividend shall be declared, except by a majority of all the directors.

SEC. 13. *And be it further enacted*, That the president and directors shall keep a book in

which their proceedings at their meetings, as a board, shall be regularly recorded, and upon every question which may occur, the ayes and noes thereupon shall be noted, which record-book shall at all times be open to the inspection of any stockholder, not being a director, officer or servant of any other bank, who shall, six months previous to his application, be the proprietor of stock to the amount of three thousand dollars.

SEC. 14. *And be it further enacted*, That any number of stockholders, not less than twenty, owning together fifty thousand dollars of stock, shall be at liberty to call a meeting of the stockholders at any time, and may appoint three of their number as a committee to examine into the state and condition of the bank, and the manner in which its affairs have been conducted: *Provided*, That no member of such committee shall be a director, president, or other officer or servant of any other bank.

SEC. 15. *And be it further enacted*, That the president and cashier shall respectively give bond and security, and also take an oath, for the faithful discharge of their duties; the president in the sum of twenty thousand dollars, and the cashier in the sum of thirty thousand dollars; the other officers and servants shall also take an oath, and enter into bond and security, in such sums as the president and directors may prescribe.

SEC. 16. *And be it further enacted*, That the said bank shall not at any time discount or loan a greater sum than double the amount of the capital stock thereof, which shall be actually paid in.

SEC. 17. *And be it further enacted*, That all bills, bonds, notes, and every contract or engagement, on behalf of the corporation, for the payment of money, shall be signed by the president and countersigned by the cashier; and the funds of the corporation shall in no case be liable for any contract or engagement, unless the same shall be signed and countersigned as aforesaid; and the president and directors shall not issue any note for a smaller sum than five dollars.

SEC. 18. *And be it further enacted*, That it shall not be lawful for the president and directors, to demand or receive a greater discount or interest than at the rate of one per cent. for sixty days, upon any loans or advances of money which they may make.

SEC. 19. *And be it further enacted*, That the shares of the capital stock shall be transferrable at any time, according to such rules as may be established by the president and directors; but no stock shall be transferred, the holder thereof being indebted to the bank, until such debt be satisfied, except the president and directors shall otherwise order it.

SEC. 20. *And be it further enacted*, That every stockholder, whether he be so by original subscription or by transfer, shall be considered as a member of this corporation, and, when he ceases to be a stockholder, he shall cease to be a member.

SEC. 21. *And be it further enacted*, That it shall be the duty of the president, or, in his absence, such one of the directors as they shall appoint, to supply his place for the time, to preside

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at the board of directors, to vote on all questions, to minute the proceedings of the board, to cause all the orders and resolutions of the board to be carried into effect, to sign all bonds, bills, notes or other engagements, which the board of directors may, from time to time, direct to be issued for the payment of money, and generally to superintend the affairs, and to watch over the interest of this corporation.

Sec. 22. *And be it further enacted*, That if a vacancy shall, at any time, happen in the office of president, director, cashier, or any other officer or servant of the bank, by death, resignation, disqualification or otherwise, the same may be filled by a majority of the directors for the time being.

Sec. 23. *And be it further enacted*, That no standing or unlimited accommodation shall be granted.

Sec. 24. *And be it further enacted*, That if any stockholder shall fail to pay up the several instalments upon his subscription, as the same may become due, his dividends upon such instalments as he may have paid shall cease as to him, and remain to the use and benefit of the other members of the corporation.

Sec. 25. *And be it further enacted*, That if the president and directors shall, at any time, wilfully and knowingly make and declare any dividend which shall impair the capital stock, or shall wilfully and knowingly violate or infringe any of the foregoing articles of this corporation, all the directors present at the making or declaring such dividends, or violating or infracting such article or articles, and consenting thereto, shall be liable in their individual capacities to the corporation, for the amount or proportion of said capital stock so divided, and also for any injury or damage that may accrue to creditors, in consequence of any such violation or infraction as aforesaid; and each director who shall be present shall be deemed to have assented thereto, unless he shall cause his dissent to be entered upon record: *Provided*, That nothing herein contained shall be construed to exempt the corporation from any liability, to any person or persons, which otherwise the said corporation might incur.

Sec. 26. *And be it further enacted*, That the president and directors shall have power—a majority of their whole number concurring—to make, revise, alter, or annul all such rules, orders, or by-laws, for the government of the corporation, and that of their officers, servants and affairs, as they may, from time to time, think expedient, not inconsistent with law.

Sec. 27. *And be it further enacted*, That any number of stockholders not less than twenty, who together shall be proprietors of two thousand shares, may, for any purpose, relative to this corporation, at any time apply to the president and directors to call a general meeting of the stockholders, and if by them refused, the said number of stockholders, proprietors of not less than that number of shares, shall have power to call a general meeting of the stockholders, giving at least thirty days' notice in one newspaper printed within the town of Alexandria, and one printed within the city of

Washington, specifying in such notice the object or objects of such call.

Sec. 28. *And be it further enacted*, That the Secretary of the Treasury of the United States shall be (at least once in every year) furnished, from time to time, as he may require it, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand, and shall have a right to inspect such general accounts in the books of the bank, as shall relate to the said statements: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

Sec. 29. *And be it further enacted*, That this corporation shall continue until the first day of January, in the year one thousand eight hundred and twenty-one; but nevertheless the proprietors of two-thirds of the capital stock of the company may, by their concurrent votes at a general meeting to be called for that purpose, dissolve the same at an earlier period: *Provided*, That notice of such meeting and its object shall be published in two or more newspapers, printed within the District of Columbia, for at least three months successively, previous to the time appointed for such meeting.

Sec. 30. *And be it further enacted*, That on the dissolution of this corporation, whenever the same shall be determined on as aforesaid, effectual measures shall be immediately taken by the president and directors, then in office, for closing all the concerns of the corporation, and for dividing the capital and profits which may remain, among the stockholders, in proportion to their respective interests.

Sec. 31. *And be it further enacted*, That this act shall not take effect until the fourth day of March, which will be in the year of our Lord one thousand eight hundred and eleven, and shall, to all intents and purposes, be deemed and held a public act.

Approved, February 16, 1811.

An Act to incorporate the Bank of Potomac.

Be it enacted, &c., That, from and after the fourth day of March, which will be in the year of our Lord one thousand eight hundred and eleven, all those who have or hereafter may become stockholders in the Bank of Potomac, their successors and assigns, shall be and they are hereby created and made a body politic, by the name and style of "The President, Directors and Company of the Bank of Potomac," and so shall continue until the fourth day of March, in the year of our Lord one thousand eight hundred and twenty-one, and no longer; and by that name shall have succession; and shall be and are hereby made able and capable in law to have, purchase and receive, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, and the same to sell, grant, de-

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mise, alien or dispose of; and by the name aforesaid may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any court of law or equity. And by the name aforesaid may do and execute every other matter and thing, that they are authorized to do by virtue of this act: *Provided always*, That the lands, tenements, and hereditaments, which it shall be lawful for the said president and directors to hold; shall be only such as shall be requisite for their immediate accommodation, in relation to the convenient transacting their business, and such as shall have been *bona fide* mortgaged to them by way of security, or conveyed to them in satisfaction of debts previously contracted in the course of their dealings: *Provided also*, That the said president and directors shall not purchase any goods, chattels or effects, unless such as are sold by virtue of an execution upon a judgment obtained by them, except such articles as may be necessary for them in transacting the business of the bank; but it shall be lawful for them to receive and hold such securities, goods, chattels and effects, by way of deposit for advances made by them to any person or persons, and on failure of payment, the same to sell and dispose of at public sale.

SEC. 2. *And be it further enacted*, That the capital of the said bank shall consist, as it now does, of the sum of five hundred thousand dollars, divided into shares of one hundred dollars each.

SEC. 3. *And be it further enacted*, That every stockholder, being a citizen of the United States, shall be entitled to vote at all elections to be holden by the stockholders in pursuance of this act, and shall have as many votes in proportion to the stock he may hold, as follows: For one share and not exceeding two shares, one vote each; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above that number, one vote. But no person or persons, bodies corporate or otherwise, shall be entitled to more than fifty votes. No share or shares shall confer a right of suffrage, which shall not have been holden two calendar months previous to the day of election. And in the choice of directors, every stockholder shall vote in person, (except those who shall reside out of the town of Alexandria,) who may vote either in person or by a written ballot by him or her subscribed, with his or her name, and duly acknowledged before a judge of a court, a justice of the peace, or a notary public; a certificate whereof shall be made on said ballot by the said judge, justice of the peace or notary public, before whom such acknowledgment shall be made; and said ballot shall be by him sealed up, and addressed to the cashier of the bank, and being transmitted to said cashier before the time of the election of directors, said ballot shall be received and counted in the choice of directors. And every stockholder may sell and transfer his stock in the said

bank, or any part thereof, at his pleasure, not being less than one complete share or shares, the transfer being made in the bank books, in the presence and with the approbation of the proprietor or his lawful attorney.

SEC. 4. *And be it further enacted*, That an election shall be held in the town of Alexandria on the first Monday of November in each year, of which notice shall be given in one or more newspapers, printed in the town of Alexandria, four weeks at least, before said day of election. And the stockholders shall choose, by ballot, from among the stockholders, by a majority of votes, twelve directors, for the term of one year thereafter; and on resignation, disqualification or removal of any director, out of the county of Alexandria, in the District of Columbia, or out of the county of Fairfax, in the State of Virginia, the other directors, at their next meeting thereafter, shall elect by ballot another person, qualified as aforesaid, in his place, for the residue of the year. The directors shall, at the first meeting after every whole general election, elect by a majority of their number, by ballot from among their own number, a president, who shall be thereupon entitled to all the powers and privileges of one; and if he was before a director, another director shall be elected as aforesaid, so as to keep the number of directors, prescribed by this act, exclusive of the president, entire; and in case of the death, resignation or removal of the president, out of the county of Alexandria, or county of Fairfax aforesaid, or his refusal to accept his office, the directors shall meet as soon as conveniently can be thereafter, and elect another person for president, in the manner before directed; but the president and directors at present elected by the stockholders, shall continue to act, until their successors are chosen: *Provided*, That in case it should at any time happen, that an election of directors should not be made upon any day, when, pursuant to this act, it ought to have been made, the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any other day, within fifteen days thereafter, to hold and make an election of directors, in such manner, as shall have been regulated by the laws and ordinances of said corporation. *And provided nevertheless*, That this section may at any time hereafter be altered or amended by Congress, in such manner as they may see fit, so as to provide for an annual rotation of the directors.

SEC. 5. *And be it further enacted*, That there shall be a meeting of the directors quarterly, for the purpose of examining the affairs of the bank, any four of whom shall make a board; and the board shall have power to adjourn, from time to time; and the president, or any three of the directors, may call a special meeting at any other time that they may think proper.

SEC. 6. *And be it further enacted*, That the board of directors, by a majority of votes, shall make by-laws, determine the manner of doing business, and the rules and forms to be pursued; and dispose of the money and credit of the bank, for the interest and benefit of the stockholders;

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and are hereby authorized to receive for discounts, made at the said bank, at the rate, and not exceeding six per cent. per annum, and make at the expiration of each half year, a dividend of the profit, or such part thereof, as they may think prudent.

SEC. 7. *And be it further enacted*, That in appointing a cashier of the said bank, and all other officers, a majority of the whole directors shall be necessary to a choice.

SEC. 8. *And be it further enacted*, That any director, officer, or other person, holding any share or capital of the said bank stock, who shall commit any fraud or embezzlement, touching the money or property of said bank, shall be liable to be prosecuted, in the name of the United States, by indictment for the same; and upon conviction thereof, shall, besides the remedy that may be had by action, in the name of the President and Directors of the Bank of Potomac, for the fraud aforesaid, forfeit to the company all his share and stock in the said bank.

SEC. 9. *And be it further enacted*, That the said bank shall not at any time discount or loan a greater sum than double the amount of the capital stock, which shall be actually paid in.

SEC. 10. *And be it further enacted*, That no stockholder, or member of said company, shall be answerable for any losses, deficiencies or failure of the capital stock of the said bank, for any more or larger sum or sums of money whatsoever, than the amount of the stock, stocks, or shares, which shall appear by the books of said company to belong to him at the time or times when such loss or losses shall be sustained, except as is hereafter excepted, that is to say: If the total amount of the debts which said company shall at any time owe, whether by bond, note, bill, or other contract, exceed twice the amount of the capital stock of the said bank, over and above the moneys actually deposited in the bank for safe-keeping, then, in case of such excess, the directors, under whose administration it shall happen, shall be liable for such excess in their natural and private capacities; and an action or actions of debt may be brought against them, or any of their heirs, executors or administrators, in any court of record within the District of Columbia, by any creditor or creditors, of said company, and may be prosecuted to judgment and execution, any condition or covenant, or agreement, to the contrary notwithstanding; but this shall not be construed to exempt the said body politic, or lands, tenements, goods or chattels of the same, from being also liable for, and chargeable with said excess: *Provided*, That such of the said directors, who may have been absent when said excess was so contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the mayor of the town of Alexandria, for the time being, and to the stockholders, at a general meeting, which he or they shall have power to call for that purpose. And

in case the directors, by whose act such excess shall be occasioned, shall not have property to pay the amount of such excess, then each and every stockholder, shall be liable in their private capacities for the deficiencies, in proportion to their respective shares in the said bank.

SEC. 11. *And be it further enacted*, That the said president and directors shall not issue any note for a smaller sum than five dollars; and the said president and directors shall, once in every year, cause to be laid before the Secretary of the Treasury of the United States an account, truly stating the situation of the bank and its funds.

SEC. 12. *And be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by a majority of the stockholders, at a general meeting; but the directors shall make such compensation to the president, for his extraordinary services and attendance at the bank, as shall appear to them reasonable.

SEC. 13. *And be it further enacted*, That none but a stockholder, being a citizen of the United States, and a resident of the county of Alexandria, or county of Fairfax, aforesaid, shall be eligible as a president or director.

SEC. 14. *And be it further enacted*, That a number of stockholders, not less than twenty, who together shall be proprietors of one thousand shares or upwards, shall have power to call a general meeting of the stockholders, for purposes relative to the institution, giving at least six weeks notice in one or more newspapers, printed in the town of Alexandria, and specifying in such notice the object or objects of such meeting.

SEC. 15. *And be it further enacted*, That this act shall, to all intents and purposes, be deemed and held a public act.

Approved, February 16, 1811.

An Act to incorporate the Union Bank of Georgetown.

Be it enacted, &c., That, from and after the fourth day of March, one thousand eight hundred and eleven, all those persons, their legal representatives or assigns, who on the first Monday of November, in the year of our Lord one thousand eight hundred and nine, in Georgetown, District of Columbia, subscribed certain articles of association, and formed a company or limited partnership, under the name and style of the "President and Directors of the Union Bank of Georgetown," and who on the said fourth day of March, in the year eighteen hundred and eleven, shall hold any share of the joint stock or funds created in pursuance of the said articles of association, and their successors, being stockholders as aforesaid, shall be and they are hereby incorporated, and made a body corporate and politic, by the name and style of the "President and Directors of the Union Bank of Georgetown," and by that name may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record and any other place whatsoever; and by that name may have and hold, purchase, receive, possess, enjoy and retain lands

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rents, tenements, hereditaments, goods, chattels and effects, of what nature, kind or quality soever, and the same sell, grant, demise, alien and dispose of. And by that name, shall have, during the continuance of this act, succession; and may make, have and use a common seal, and the same may break, alter and renew at pleasure; and shall have power to ordain, establish and put in execution, such by-laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation, not being contrary to law nor to the constitution thereof; and generally to do and execute all acts necessary or proper for the objects of said incorporation, subject to the rules, regulations, restrictions, limitations and provisions herein described and declared.

SEC. 2. *And be it further enacted,* That the capital stock of the said bank shall consist of five hundred thousand dollars, money of the United States, to be divided into shares of fifty dollars each; of which fifteen dollars on each share has been paid, according to the articles of association aforesaid; and it shall be optional with any stockholder hereafter to pay up the further sum of thirty-five dollars: *Provided,* That not more than fifty thousand dollars be paid, in any one year, unless the president and directors, by a rule or order, should authorize or permit a greater sum to be paid; the dividend or dividends on such sums of money so paid, shall not commence until the first day of the month next ensuing such payment.

SEC. 3. *And be it further enacted,* That the said bank shall transact its business in Georgetown.

SEC. 4. *And be it further enacted,* That the affairs of the said bank shall be conducted by twelve directors and a president, whose place, if chosen from among their number, shall be supplied by that body. Six of the directors, with the president, shall form a board or quorum for transacting all the business of the company, but the ordinary discounts may be done by the president and three directors. In case of his sickness or necessary absence, his place may be supplied by any director, whom he, by writing under his hand, may nominate for that purpose, or in case of his not making such nomination, the board may appoint a president to act during his absence. The president and directors who may be in office under the said articles of association on the said fourth day of March, eighteen hundred and eleven, shall continue in office under and by virtue of this act of incorporation, until others shall be duly chosen in their stead. No person shall be a director or president, who is not a citizen of the United States, and a stockholder; and a director ceasing to be a stockholder, shall cease to be a director; and no person, a director of another bank, shall be a director of this bank. Every stockholder, being a citizen of the United States, shall be entitled to vote at all elections to be held by the stockholders in pursuance of this act, and shall have as many votes, in proportion to the stock they may hold, as follows: for

every share as far as twenty, one vote for each share, and one vote for every two shares thereafter, as far as forty; but no person or persons, bodies corporate or otherwise, shall be entitled to more than one hundred and fifty votes; no stockholder shall be permitted to vote, who has not held his stock two calendar months, prior to the day of election. All stockholders living in Georgetown, shall vote in the choice of directors by ballot in person: but every stockholder living out of said town may vote in person or by a written ballot, by him or her subscribed with his or her name, and duly acknowledged before a judge of a court, a justice of the peace, or a notary public; a certificate whereof shall be made on said ballot by the judge, justice of the peace, or notary public, before whom such acknowledgment shall be made: and said ballot shall by him be sealed up, and addressed to the cashier of the bank, and being transmitted before the time of the election, shall be received and counted in the election. No person who is not a citizen of the United States shall be entitled to vote in any election of this corporation: *Provided, nevertheless,* That this section may at any time hereafter be altered or amended by Congress, in such a manner as they may see fit, so as to provide for an annual rotation of the directors.

SEC. 5. *And be it further enacted,* That a general meeting of the stockholders of the said bank shall be holden on the first Monday in April, in the year eighteen hundred and eleven, and on the first Monday of April, in every year thereafter, at such place as the president and directors shall appoint, by giving four weeks notice in two or more of the newspapers of the District, for the purpose of electing directors for the ensuing year, who shall meet on the day succeeding their election, and shall immediately proceed to choose a president; and the president and directors for the time being, shall continue in office until others shall be duly elected in their places, and be organized by the assembling of a quorum, and the choice of a president. At all elections the persons having the greatest number of votes shall be deemed to be chosen. All elections shall be held under the superintendence of the president of the bank, for the time being, and four stockholders, not being at the time directors, appointed by the board of directors, any three of whom shall be judges thereof. They shall immediately thereafter notify the persons elected to meet the ensuing day at the bank, and shall make a return of the person elected, at their first meeting. Should two or more persons have an equal number of votes, the other individuals elected directors shall determine, by ballot from among said persons, who shall be the director or directors. All elections shall be opened at ten o'clock in the forenoon, and closed at three in the afternoon.

SEC. 6. *And be it further enacted,* That the president and directors shall have full power to make, revise, alter and annul all such rules, orders, by-laws and regulations, for the government of said corporation, and that of its officers, servants, and affairs, as they shall from time to time think

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expédient; and to use, employ, and dispose of the capital stock, funds and property of said bank, for the interest and benefit of the stockholders, subject only to the restrictions herein contained; but the said bank shall not take for discounting any bill or note, more than at the rate of six per cent. per annum, upon the amount due by such bill or note.

SEC. 7. *And be it further enacted,* That all promissory notes, bills of exchange, drafts, checks, and receipts, for the payment of money made on behalf of the said bank, signed by the president and countersigned and attested by the cashier, shall be obligatory upon the said body corporate, and shall possess the like qualities as to negotiability, and the holders thereof shall have the like actions thereupon, as if such promissory notes, bills of exchange, drafts, checks or receipts, had been made by or on behalf of a natural person.

SEC. 8. *And be it further enacted,* That the books, papers, correspondence, and funds of the bank shall at all times be subject to the inspection of the directors. And the said president and directors shall once in every year cause to be laid before the Secretary of the Treasury of the United States an account, truly stating the situation of the bank and its funds.

SEC. 9. *And be it further enacted,* That the said president and directors shall have power to appoint a cashier, and all other officers and servants, for executing the business of said bank, and to establish the compensation to be made to the president and all other officers and servants of the said bank, respectively; but no compensation shall be given to a director for his services, except by a vote of the stockholders in general meeting.

SEC. 10. *And be it further enacted,* That the president and directors shall have power to call a general meeting of the stockholders, for purposes concerning the interest of the bank, giving at least six weeks notice, in one or more of the newspapers of the District, specifying in such notice the object or objects of such meeting.

SEC. 11. *And be it further enacted,* That the shares of the capital stock, at any time owned by any individual stockholder, shall be transferable only on the books of the bank according to such rules, as may, conformably to law, be established in that behalf, by the president and directors; but all debts actually due and payable to the bank (days of grace for payment being passed) by a stockholder, requesting a transfer, must be satisfied, before such transfer shall be made, unless the president and directors shall direct to the contrary.

SEC. 12. *And be it further enacted,* That the dividends of the profits of the company, or so much of said profits as shall be deemed expedient and proper, shall be declared half yearly, in the first week in April and October, in each year; the amount of said dividend shall from time to time be determined by the president and directors, and shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock of the said company shall never be impaired by dividends.

SEC. 13. *And be it further enacted,* That if the

said directors shall at any time, wilfully and knowingly make or declare any dividend which shall impair the said capital stock, all the directors present at the making or declaring of said dividend, and consenting thereto, shall be liable in their individual capacities to the company, for the amount or proportion of said capital stock so divided by the said directors; and each director who shall be present at the making or declaring of such dividend, shall be deemed to have consented thereto, unless he shall immediately enter in writing his dissent, on the minutes of the proceedings of the board, and give notice thereof, to the Secretary of the Treasury of the United States.

SEC. 14. *And be it further enacted,* That the bank shall in no case be owners of any ships or vessels, directly or indirectly be concerned in trade, or the importation or exportation, purchase, or sale of any goods, wares, or merchandise whatever, except bills of exchange, bullion, stock of the United States, or of incorporated institutions, and such ships, vessels, goods, wares, or merchandise, as shall be truly pledged to them by way of security for debts due, owing or growing due to the said bank, or purchased by it to secure such debts.

SEC. 15. *And be it further enacted,* That the bank shall not purchase or hold any lands, tenements, or other real estates, other than what may be necessary for the convenient transaction of its business, unless such lands, tenements, and real estates, shall have been *bona fide* mortgaged to the bank by, way of security, or conveyed to it in satisfaction of debts previously contracted in the course of dealings, or purchased to secure debts contracted with or due to the bank; and in every instance in which the bank may become the owners or claimants of lands, tenements, or real estates, the president and directors are empowered to sell or dispose of the same, in such a manner as they may deem beneficial for the said bank.

SEC. 16. *And be it further enacted,* That if any vacancy shall at any time happen among the directors, by death, resignation, or otherwise, the rest of the directors for the time being, shall elect a director to fill the vacancy.

SEC. 17. *And be it further enacted,* That any number of stockholders, not less than twenty, who shall be proprietors of not less than four thousand shares, may for any purpose relative to the institution, at any time apply to the president and directors, to call a general meeting of the stockholders, and if by them refused, the said number of stockholders, proprietors of not less than the number of shares aforesaid, shall have power to call a general meeting of the stockholders, giving at least sixty days notice in two or more of the public newspapers in the District, specifying in such notice the object or objects of such call.

SEC. 18. *And be it further enacted,* That the said bank shall not at any time discount or loan a greater sum than double the amount of the capital stock, which shall be actually paid in.

SEC. 19. *And be it further enacted,* That the total amount of the debts which the said corporation shall at any time owe, whether by bond,

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bill, note, or other contract, shall not exceed twice the amount of their capital stock actually paid, over and above the moneys then actually deposited in the bank for safe-keeping. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same in their natural and private capacities; and an action of debt may in such case be brought against them or any of them, their or any of their heirs, executors, or administrators, in any court proper to try the same, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt said corporation, or the lands, tenements, goods, or chattels of the same, from being also liable for, and chargeable with said excess. Such of said directors who may have been absent when said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the Secretary of the Treasury of the United States, and to the stockholders at a general meeting, which they shall have power to call for that purpose; and the body corporate hereby created, and the capital stock thereof, shall be liable for all the debts and engagements contracted, or which, before or on the said fourth day of March, in the year eighteen hundred and eleven, shall be contracted by the company, or co-partnership heretofore created by the articles of association herein before mentioned, and which carried on the banking business under the name and style of "The President and Directors of the Union Bank of Georgetown;" and the creditors of the said co-partnership, shall have the like remedy by action, against the said body corporate, as they had or have, or may or can have against the said co-partnership.

SEC. 20. *And be it further enacted*, That in case it should at any time happen, that an election of directors should not be made, on any day when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors, at a meeting to be called in such manner as shall be prescribed by the laws and ordinances of the said corporation.

SEC. 21. *And be it further enacted*, That this act shall, to all intents and purposes, be deemed and held a public act, and be and continue in force for the term of ten years, from and after the fourth day of March, which will be in the year of our Lord, one thousand eight hundred eleven, and no longer.

Approved, February 18, 1811.

An Act making a further distribution of such laws of the United States, as respect the Public Lands.

Be it enacted, &c., That the copies of the laws prepared and printed under the authority of "An

act providing for printing and distributing of such laws of the United States as respect the public lands," passed the twenty-seventh day of April, one thousand eight hundred and ten, not otherwise disposed of, shall be distributed in the manner following; that is to say: The President and Vice President of the United States, the members of the Senate and House of Representatives, the Secretaries of the State, Treasury, War, and Navy Departments, the Attorney General, the Comptroller, and Register of the Treasury, the Judges of the Supreme and District Courts of the United States, the Governors and Judges of the Territories, the Surveyor General of the United States, and the Surveyor of the lands of the United States south of Tennessee, shall each receive one copy; the clerks in each of the Departments of State, Treasury, and War, employed on land business, five copies; the Secretary of the Senate, to be placed on his table for the use of the Senate, five copies; the Clerk of the House of Representatives, to be placed on his table, for the use of the House of Representatives, ten copies; two hundred and fifty copies shall be placed in the Library, and remain there under the same regulations as the other laws of the United States; one hundred copies shall be deposited in the Treasury Department, for the use of the land boards and offices which may hereafter be established; and the remainder shall be placed in the Library, and each member of Congress hereafter elected, shall, so long as any remain, exclusive of the two hundred and fifty copies before mentioned, be entitled to one copy at the commencement of that session of Congress next succeeding his election.

Approved, February 18, 1811.

An Act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and for other purposes.

Be it enacted, &c., That the inhabitants of all that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris on the thirtieth of April, one thousand eight hundred and three, between the United States and France, contained within the following limits, that is to say: beginning at the mouth of the river Sabine, thence by a line to be drawn along the middle of the said river, including all islands to the thirty-second degree of latitude, thence due north, to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river and Lakes Maurepas and Pontchartrain, to the Gulf of Mexico; thence bounded by the said gulf to the place of beginning: including all islands within three leagues of the coast, be and they are hereby authorized to form for themselves a constitution and State government, and to assume such name as they may deem proper, under the provisions and upon the conditions hereinafter mentioned.

Public Acts of Congress.

SEC. 2. *And be it further enacted*, That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory, at least one year previous to the day of election, and shall have paid a territorial, county, or district, or parish tax; and all persons having in other respects the legal qualifications to vote for representatives in the General Assembly of the said Territory, be and they are hereby authorized to choose representatives to form a convention; who shall be apportioned amongst the several counties, districts, and parishes in the said Territory of Orleans, in such manner as the Legislature of the said Territory shall by law direct. The number of representatives shall not exceed sixty; and the elections for the representatives aforesaid shall take place on the third Monday in September next, and shall be conducted in the same manner as is now provided by the laws of the said Territory, for electing members for the House of Representatives.

SEC. 3. *And be it further enacted*, That the members of the convention, when duly elected, be and they are hereby authorized to meet at the city of New Orleans, on the first Monday of November next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be expected or not, at that time, to form a constitution and State government, for the people within the said Territory, and if it be determined to be expedient, then the convention shall in like manner declare, in behalf of the people of the said Territory, that it adopts the Constitution of the United States; whereupon the said convention shall be, and hereby is, authorized to form a constitution and State government, for the people of the said Territory: *Provided*, The constitution to be formed, in virtue of the authority herein given, shall be republican, and consistent with the Constitution of the United States; that it shall contain the fundamental principles of civil and religious liberty; that it shall secure to the citizen the trial by jury in all criminal cases, and the privilege of the writ of *habeas corpus*, conformable to the provisions of the Constitution of the United States; and that after the admission of the said Territory of Orleans as a State into the Union, the laws which such State may pass shall be promulgated, and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted, in the language in which the laws and the judicial and legislative written proceedings of the United States are now published and conducted: *And provided also*, That the said convention shall provide by an ordinance, irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare that they forever disclaim all right or title to the waste or unappropriated lands, lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and moreover that each and every tract of land, sold by Congress, shall be and remain exempt from any tax, laid by

the order or under the authority of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales thereof; and that the lands, belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no taxes shall be imposed on lands the property of the United States; and that the river Mississippi and the navigable rivers and waters leading into the same or into the Gulf of Mexico, shall be common highways and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost or toll therefor, imposed by the said State.

SEC. 4. *And be it further enacted*, That in case the convention shall declare its assent in behalf of the people of the said Territory, to the adoption of the Constitution of the United States, and shall form a constitution and State government for the people of the said Territory of Orleans, the said convention, as soon thereafter as may be, is hereby required to cause to be transmitted to Congress the instrument, by which its assent to the Constitution of the United States is thus given and declared, and also a true and attested copy of such constitution or frame of State government, as shall be formed and provided by said convention and if the same shall not be disapproved by Congress, at their next session, after the receipt thereof, the said State shall be admitted into the Union, upon the same footing with the original States.

SEC. 5. *And be it further enacted*, That five per centum of the net proceeds of the sales of the lands of the United States, after the first day of January, shall be applied to laying out and constructing public roads and levees in the said State, as the Legislature thereof may direct.

Approved, February 20, 1811.

An Act making appropriations for the support of Government for the year one thousand eight hundred and eleven.

Be it enacted, &c., That, for the expenditure of the civil list in the present year, including the contingent expenses of the several departments and offices; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint Establishment; for the expense of intercourse with foreign nations; for the support of light-houses, beacons, buoys, and public piers; for defraying the expenses of surveying the public lands; and for satisfying certain miscellaneous claims, the following sums be, and the same are hereby respectively appropriated, that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, two hundred and one thousand four hundred and twenty-five dollars.

Public Acts of Congress.

For the expense of fire-wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, thirty-four thousand dollars.

For all contingent expenses of the library of Congress, and for the librarian's allowance for the year one thousand eight hundred and eleven, eight hundred dollars.

For repairing the roof and fitting up a room in the west side of the north wing of the Capitol for the library of Congress, six hundred dollars.

For compensation to the President and Vice President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks and persons employed in that Department, including the sum of one thousand four hundred and seventy-eight dollars, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, fourteen thousand and thirty-eight dollars.

For the incidental and contingent expenses of the said Department, one thousand three hundred and fifty dollars.

For printing and distributing the laws of the third session of the eleventh Congress, and printing the laws in newspapers, five thousand five hundred dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, including the sum of one thousand seven hundred and fifty dollars for clerk hire, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, sixteen thousand seven hundred dollars.

For expense of translating foreign languages, allowance to the person employed in transmitting passports and sea-letters, and for stationery and printing in the office of the Secretary of the Treasury, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, including the sum of one thousand six hundred and thirty-nine dollars for compensation to his clerks, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, fourteen thousand six hundred and sixteen dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Comptroller's office, five hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty-one dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Auditor's office, five hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, six thousand two hundred and twenty-seven dollars forty-five cents.

For expense of stationery, printing, and incidental and contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand fifty-two dollars and two cents.

For compensation to the messenger of the Register's office, for stamping and arranging ships' registers, ninety dollars.

For expense of stationery, printing, and all other incidental and contingent expenses in the Register's office, including books for the public stocks, and for the arrangement of the marine records, two thousand eight hundred dollars.

For fuel and other contingent and incidental expenses of the Treasury Department, four thousand dollars.

For the purchase of books, maps, and charts, for the use of the Treasury Department, four hundred dollars.

For compensation to a superintendent, employed to secure the buildings and records of the Treasury Department, during the year one thousand eight hundred and eleven, including the expense of two watchmen, the repairs of two fire engines, buckets, lanterns, and other incidental and contingent expenses, one thousand one hundred dollars.

For defraying the expense of stating and printing the public accounts for the year one thousand eight hundred and eleven, one thousand two hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and fifty dollars.

For expense of fuel, stationery, printing, and other contingent expenses of the office of the Secretary of War, one thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to the clerks employed in the Paymaster's office, three thousand four hundred dollars.

For contingent expenses in the said office, two hundred dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for expense of stationery, store rent, and fuel for said office, including the sum of five hundred dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, five thousand one hundred dollars.

For compensation of additional clerks in the office of the Superintendent of Indian Trade, eight hundred dollars.

For compensation to the Secretary of the Navy, clerks and persons employed in his office, nine thousand eight hundred and ten dollars.

For expense of stationery, fuel, printing, and other contingent expenses in the said office, two thousand dollars.

For compensation to the Accountant of the Navy, clerks and persons employed in his office, ten thousand four hundred and ten dollars.

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For contingent expenses in the office of the Accountant of the Navy, one thousand dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, including the sum of two thousand seven hundred and forty-five dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, and the sum of eight hundred and fifty-seven dollars for deficiencies in the appropriation for the year one thousand eight hundred and ten, nineteen thousand seven hundred and fifty-seven dollars and seventy-eight cents.

For the expense of fuel, house rent for the messenger, candles, stationery, chests, &c., incident to the Postmaster General's office, two thousand five hundred dollars.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the Commissioners of Loans, and for allowances to certain loan officers, in lieu of clerk hire, and to defray the authorized expense of the several loan offices, fifteen thousand dollars.

For compensation to the Surveyor General and his clerks, three thousand two hundred dollars.

For compensation to the Surveyor of the lands south of Tennessee, clerks employed in his office, and for stationery and other contingencies, three thousand seven hundred dollars.

For compensation to the officers of the Mint, viz:

The Director, two thousand dollars;

The Treasurer, one thousand two hundred dollars;

The Assayer, one thousand five hundred dollars;

The Chief Coiner, one thousand five hundred dollars;

The Melter and Refiner, one thousand five hundred dollars;

The Engraver, one thousand two hundred dollars;

One clerk at seven hundred dollars, and two clerks at five hundred dollars each.

For wages to the persons employed in melting, coining, carpenters', mill-wrights', and smiths' work, including the sum of one thousand dollars allowed to an assistant coiner and die-forger, who also oversees the execution of the iron work, and of six hundred dollars allowed to an assistant engraver, eight thousand dollars.

For repairs of furnaces, cost of rollers and screws, timber, bar-iron, lead, steel, potash, and for all other contingencies of the Mint, two thousand seven hundred and seventy-five dollars.

For an allowance for wastage in the gold and silver coinage, including a deficiency in the appropriation for the year one thousand eight hundred and ten, arising from the increase of the coinage for that and several antecedent years, six thousand eight hundred dollars.

For compensation to the Governor, Judges, and Secretary, of the Territory of Orleans, thirty thousand dollars.

For the expense of stationery and other contingent expenses of said Territory, including the sum

of one thousand dollars for a deficiency in the appropriation for the year one thousand eight hundred and ten, two thousand eight hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Mississippi Territory, including the sum of one thousand one hundred and thirteen dollars and thirty-three cents, for a deficiency in the appropriation for the year one thousand eight hundred and ten, ten thousand one hundred and thirteen dollars and thirty-three cents.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Indiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Louisiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Illinois Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, two thousand dollars.

For additional compensation to the clerks in the several Departments of State, Treasury, War and Navy, and of the General Post Office, not exceeding for each department, respectively, fifteen per centum in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads and for other purposes," thirteen thousand two hundred and sixty-nine dollars and thirty-two cents.

For compensation granted by law to the Chief Justice, the Associate Judges and District Judges of the United States, including the Chief Justice and two Associate Judges for the District of Columbia; to the Attorney General, and to the District Judge of the Territory of Orleans, fifty-nine thousand four hundred dollars.

For the like compensation granted to the several District Attorneys of the United States, three thousand four hundred dollars.

For compensation granted to the several Marshals for the Districts of Maine, New Hampshire, Vermont, New Jersey, North Carolina, Kentucky,

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Ohio, East and West Tennessee, and Orleans, two thousand two hundred dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures and penalties, and for defraying the expenses of prosecutions for offences against the United States, and for the safe keeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late and present Government, nine hundred and sixty dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and eleven, to the fourth of March one thousand eight hundred and twelve, ninety-eight thousand dollars ninety-eight thousand dollars.

For the maintenance and support of light-houses, beacons, buoys and public piers, stakeages of channels, bars and shoals, and certain contingent expenses, sixty-eight thousand nine hundred and sixty-five dollars and thirty-nine cents.

For erecting light-houses at the mouth of the Mississippi, and at or near the Pitch of Cape Look Out, in North Carolina, being the amount of an additional appropriation, carried to the surplus fund, twenty thousand dollars.

For building a light-house on the south point of Cumberland Island, in Georgia, being the amount of a former appropriation carried to the surplus fund, four thousand dollars.

For erecting a light-house on the south point of Sapelo Island in Georgia, and for placing certain buoys and beacons on Dobay bar and Beach point, being the balance of former appropriations carried to the surplus fund, six thousand seven hundred and eighty-nine dollars and six cents.

For erecting a light-house on Point Judith, being the balance of a former appropriation carried to the surplus fund, one hundred and sixty-eight dollars and sixty-seven cents.

For erecting two lights on Lake Erie, viz: on or near Bird Island, and on or near Presque Isle, in addition to the appropriation heretofore made for that purpose, four thousand dollars.

For defraying the expense of surveying the public lands within the several Territories of the United States, one hundred thousand dollars.

For paying for the printing of new ships' registers, including the cost of paper, the balance of a former appropriation of one thousand one hundred and forty dollars for this object having been heretofore carried to the surplus fund, one thousand five hundred dollars.

For discharging the expense of the third enumeration of the inhabitants of the United States, and that of taking an account of their manufactures, one hundred and fifty thousand dollars.

For expenses of intercourse with foreign nations, forty-seven thousand dollars.

For expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For the contingent expenses of Government, the balance of former appropriations for that ob-

ject having been carried to the surplus fund, twenty thousand dollars.

For the relief and protection of distressed American seamen, five thousand dollars.

For expenses of prosecuting claims and appeals in the courts of Great Britain in relation to captures of American vessels, and defending causes elsewhere, four thousand dollars.

For compensation allowed George W. Erving, as agent in receiving and paying awards of the Board of Commissioners, under the seventh article of the British treaty, estimated at two and a half per cent. on the amount of such awards as were actually received by him, twenty-two thousand three hundred and ninety-two dollars and sixty-seven cents.

For payment of the claim of Patrick Donnon, late surveyor of the county of Hardy, in Virginia, being his compensation under the act of Congress, passed May thirteenth, one thousand eight hundred, "to enlarge the power of the surveyors of the revenue," for valuing, recording, and adding to the tax lists sundry tracts of lands and dwelling-houses omitted by the assessors, there not being a sufficient balance due for direct tax from Virginia for satisfying this claim, seven hundred and twenty-eight dollars and eighty-five cents.

For payment of expenditures made by James Simmons, late collector of Charleston, from January first, one thousand seven hundred and ninety-nine, to December thirty-first, one thousand eight hundred and five, for the Navy Department, as admitted on settlement of his accounts at the Treasury, nine thousand three hundred and seventy-nine dollars and three cents.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, four thousand dollars.

For the payment of a balance due the estate of the late Major General Anthony Wayne, in conformity with the act passed at the present session, entitled "An act for the relief of the heirs of the late Major General Wayne," five thousand eight hundred and seventy dollars and thirty-four cents.

SEC. 2. *And be it further enacted,* That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and out of any moneys in the Treasury not otherwise appropriated.

Approved, February 20, 1811.

An Act to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation.

Be it enacted, &c., That the Directors of the Georgetown Potomac Bridge Company be, and they are hereby empowered to call a general meeting of the stockholders of said company, to be held at Georgetown, in the District of Columbia, by causing public notice to be given of the time and place of such meeting, in the National Intelligencer, and in one of the newspapers printed in

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each of the cities of New York, Philadelphia, and Baltimore, in four successive weeks, the last time at least thirty days before the day of holding the said general meeting. And if at such general meeting, the stockholders present, by themselves or legal representatives, shall determine to rebuild the bridge at or near the little falls of the river Potomac, (for the purpose of erecting which originally was the object of their incorporation,) the holders of two-thirds of the stocks represented at that meeting concurring, then it shall and may be lawful for the directors of said company, or any two of them, and they are hereby empowered, to assess upon and collect, from the stockholders of the said company, such sum and sums of money, as shall be necessary to pay its debts already incurred, and to rebuild, make and keep in repair the said bridge, together with the road leading thereto from Georgetown: *Provided*, That the whole amount of such assessments shall not exceed twenty-five dollars on each share in the stock of said company. And any such assessment and assessments, the said directors shall give public notice to the said stockholders, by advertising the same in the newspapers aforesaid; and the sum and sums which shall be so assessed, the said stockholders are hereby required to pay to the said directors, within sixty days after such notice; and on failure thereof, for the space of thirty days, after the expiration of the said sixty days, the said directors, or any two of them, are hereby authorized to sell the share or shares of any and every delinquent stockholder; every such sale to be made at public auction in Georgetown aforesaid, on the day specified in said advertisement: *Provided*, That no more shares shall be sold than shall be deemed necessary to levy the sum and sums of money which shall be assessed as aforesaid; and that the surplus, if any, arising on any such sales, shall by the directors aforesaid, be deposited in the Bank of Columbia, for the use of the owner or owners of the share or shares so sold. And the said directors, or any two of them, shall transfer on the books of the said company, to the purchaser or purchasers, the share or shares so sold, and if demanded give a certificate or certificates thereof, under their hands and seals, which shall secure to such purchaser, or purchasers, a valid title to the same.

Approved February 22, 1811.

An Act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory.

Be it enacted, &c., That the commissioners appointed by an act of the Legislature of the State of Tennessee, passed on the fourteenth day of November, one thousand eight hundred and nine, to fix on a site for the town of Pulaski, in the county of Giles, and State aforesaid, and their successors in office, be and they are hereby authorized, on producing a receipt from the receiver of public moneys for at least one-twentieth part of the purchase money, to enter with the register of the land office, established for the lands ceded

to the United States by the Cherokee and Chickasaw Indians, in the Mississippi Territory, a tract of land lying in a regular square, and containing six hundred and forty acres, which has or may be fixed on as a site for the town of Pulaski, as aforesaid, at the same price and on the same terms and conditions of payment as are provided with respect to the other public lands sold at private sale at the said office; and, on completing the payment of the purchase money, a patent shall be granted therefor to the said commissioners and their successors in office, in trust, for the use of the said county of Giles, for the purpose aforesaid.

SEC. 2. *And be it further enacted*, That the commissioners appointed by an act of the Legislature of the Indiana Territory, to fix on a proper site for the permanent seat of government for the said Territory, be, and they are hereby authorized, and their successors in office, so soon as the surveys under the authority of the United States shall have been made of the lands which they shall select, and on producing a receipt from the receiver of public moneys, for at least one-twentieth part of the purchase money, to enter with the register of the land office for the district in which the land lies, any four quarter sections of land adjoining to each other, which have not been reserved by any former act of Congress, and which the said commissioners may select and fix on as a site for the permanent seat of government for the said Territory, and payment shall be made therefor at the same price, and on the same terms and conditions, as are provided in respect to the other public lands sold at private sale, in the same district; and on completing the payment of the purchase money, a patent shall be granted therefor to the said commissioners and their successors in office, in trust for the use of said Territory, for the purpose aforesaid.

Approved, February 25, 1811.

An Act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio; and to authorize the register and receiver of public moneys to superintend the public sales of land in the district east of Pearl river.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized to remove the land office established for the sale of the public lands ceded to the United States by the Cherokee and Chickasaw Indians in the Mississippi Territory, from Nashville, to such place within the district for which it was established as he may judge most proper; and to remove the land office from Canton, in the State of Ohio, to some suitable place within the district for which it was established.

SEC. 2. *And be it further enacted*, That the public sales of the public lands in the district east of Pearl river, in the Mississippi Territory, and, also, in the district of Kaskaskia, in the Illinois Territory, be conducted under the superintendence alone of the register and receiver of

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public moneys for the said districts, who are hereby authorized and empowered to superintend the same, in their respective districts, any law to the contrary notwithstanding; and they shall receive the compensation provided by law for the superintendents of public sales in the districts aforesaid.

SEC. 3. *And be it further enacted*, That, if any tract of the public lands which has been sold, or may hereafter be sold, in any State or Territory wherein a land office is, or may be established, and on which complete payment has not, or may not have been made, within the time prescribed by law for completing the same, and the tract having been advertised for sale, agreeably to law, it shall be lawful to offer the same for sale at public vendue, at the time and place of the sitting of the court for the county in which the land office is kept for the district to which the tract belongs, whether the court shall be denominated a court of quarter sessions, or by whatever other designation it may be known.

Approved, February 25, 1811.

An Act establishing Navy Hospitals.

Be it enacted, &c., That the money hereafter collected by virtue of the act, entitled "An act in addition to 'An act for the relief of sick and disabled seamen,'" shall be paid to the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being, who are hereby appointed a board of commissioners, by the name and style of Commissioners of Navy Hospitals, which, together with the sum of fifty thousand dollars hereby appropriated out of the unexpended balance of the marine hospital fund, to be paid to the commissioners aforesaid, shall constitute a fund for navy hospitals.

SEC. 2. *And be it further enacted*, That all fines imposed on navy officers, seamen and marines, shall be paid to the Commissioners of Navy Hospitals.

SEC. 3. *And be it further enacted*, That the Commissioners of Navy Hospitals be, and they are hereby authorized and required to procure, at a suitable place or places, proper sites for navy hospitals, and if the necessary buildings are not procured with the site, to cause such to be erected, having due regard to economy, and giving preference to such plans as with most convenience and least cost will admit of subsequent additions, as the funds will permit, and circumstances require; and the commissioners are required, at one of the establishments, to provide a permanent asylum for disabled and decrepit navy officers, seamen and marines.

SEC. 4. *And be it further enacted*, That the Secretary of the Navy be authorized and required to prepare the necessary rules and regulations for the government of the institution, and report the same to the next session of Congress.

SEC. 5. *And be it further enacted*, That, when any navy officer, seaman, or marine, shall be admitted into a navy hospital, that the institution shall be allowed one ration per day during his

continuance therein, to be deducted from the account of the United States with such officer, seaman, or marine; and, in like manner, when any officer, seaman, or marine, entitled to a pension, shall be admitted into a navy hospital, such pension, during his continuance therein, shall be paid to the Commissioners of the Navy Hospitals, and deducted from the account of such pensioner.

Approved, February 26, 1811.

An Act in addition to the act, entitled "An act supplementary to the act concerning Consuls and Vice-Consuls," and for the further protection of American seamen.

Be it enacted, &c., That in all cases where distressed mariners and seamen of the United States have been transported from foreign ports where there was no consul, vice-consul, commercial agent, or vice-commercial agent, of the United States, to ports of the United States; and in all cases where they shall hereafter be so transported, there shall be allowed to the master or owner of each vessel, in which they shall or may have been transported, such reasonable compensation, in addition to the allowance now fixed by law, as shall be deemed equitable to the Comptroller of the Treasury.

Approved, February 28, 1811.

An Act supplementary to the act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

Be it enacted, &c., That no vessel, owned wholly by a citizen or citizens of the United States, which shall have departed from a British port prior to the second day of February, one thousand eight hundred and eleven, and no merchandise, owned wholly by a citizen or citizens of the United States, imported in such vessel, shall be liable to seizure or forfeiture, on account of any infraction, or presumed infraction, of the provisions of the act to which this act is a supplement.

SEC. 2. *And be it further enacted*, That, in case Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, the President shall declare the fact by proclamation; and such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification in any suit or prosecution which may be instituted under the fourth section of the act to which this act is a supplement. And the restrictions imposed, or which may be imposed, by virtue of the said act, shall, from the date of such proclamation, cease and be discontinued.

SEC. 3. *And be it further enacted*, That, until the proclamation aforesaid shall have been issued, the several provisions of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall

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have full force, and be immediately carried into effect against Great Britain, her colonies, and dependencies: *Provided, however,* That any vessel or merchandise which may, in pursuance thereof, be seized, prior to the fact being ascertained, whether Great Britain shall, on or before the second day of February, one thousand eight hundred and eleven, have revoked or modified her edicts in the manner above-mentioned, shall, nevertheless, be restored on application of the parties, on their giving bond, with approved sureties, to the United States, in a sum equal to the value thereof, to abide the decision of the proper court of the United States thereon; and any such bond shall be considered as satisfied, if Great Britain shall, on or before the second day of February, one thousand eight hundred and eleven, have revoked or modified her edicts in the manner above-mentioned: *Provided, also,* That nothing herein contained shall be construed to affect any ships or vessels wholly owned by a citizen or citizens of the United States, which had cleared out for the Cape of Good Hope, or for any port beyond the same, prior to the tenth day of November, one thousand eight hundred and ten.

Approved, March 2, 1811.

An Act for establishing trading houses with the Indian tribes.

Be it enacted, &c., That it shall be lawful for the President of the United States to establish trading houses at such ports and places on the frontiers, or in the Indian country, on either or both sides of the Mississippi river, as he shall judge most convenient, for the purpose of carrying on a liberal trade with the several Indian nations, within the United States or their territories.

SEC. 2. *And be it further enacted,* That the President of the United States shall be authorized to appoint a Superintendent of Indian trade, whose duty it shall be to purchase and take charge of all goods intended for trade with the Indian nations, aforesaid, and to transmit the same to such places as he shall be directed by the President; and he shall take an oath or affirmation faithfully to execute the trust committed to him, and that he will not directly or indirectly be concerned or interested in any trade, commerce, or barter, restricted by this law, and except on the public account; and he shall also give bond, in the penal sum of twenty thousand dollars, with sufficient security, to be approved by the Secretary of the Treasury of the United States, truly and honestly to account for all money, goods, and other property whatever, which shall come into his hands, or for which, in good faith, he ought so to account, and to perform all the duties required of him by this act; and he shall render to the Secretary of the Treasury a quarter yearly account of all his receipts and expenditures of cash, purchases, and transmittals of goods for the Indian trade, to be settled and adjusted by the accounting officer of the Treasury, as other public accounts.

SEC. 3. *And be it further enacted,* That the Superintendent of Indian trade shall receive an annual salary of two thousand dollars, payable quarter yearly, at the Treasury of the United States.

SEC. 4. *And be it further enacted,* That the President of the United States shall be authorized to appoint an agent, and, when he shall deem it proper, an assistant agent, for each trading-house establishment, established under the provisions of this act; and every such agent and assistant agent shall give bond, with sufficient security, in such sum as the President shall direct, truly and honestly to account for all the money, goods, and other property whatever, which shall come into his hands, and for which he ought so to account; and to perform all the duties required of him by this act; and shall take an oath or affirmation faithfully to execute the trust committed to him; and that he will not directly or indirectly be concerned or interested in any trade, commerce, or barter, but on the public account.

SEC. 5. *And be it further enacted,* That it shall be the duty of each of the said agents to receive, from the Superintendent of Indian trade, and dispose of in trade with the Indian nations aforesaid, such goods as may be transmitted to him by the superintendent, to be received and disposed of as aforesaid, according to the rules and orders which the President of the United States shall prescribe; and he shall render an account, quarter yearly, to the Superintendent of Indian trade, of all money, goods, and other property whatsoever, which shall be transmitted to him, or which shall come into his hands, or for which, in good faith, he ought to account; and he shall transmit duplicates of his accounts to the Secretary of the Treasury of the United States.

SEC. 6. *And be it further enacted,* That the Superintendent of Indian trade, the agents, or their clerks, or other persons employed by them, shall not be, directly or indirectly, concerned or interested in carrying on trade or commerce in any of the goods or articles bought for, or supplied to, or received from the Indians, or shall be owner, in whole or in part, of any sea vessel, or shall take or apply to his or their use any gain or emolument for negotiating or transacting any business in the Indian department, other than what shall be allowed by law; and that the said agents, assistant agents, or any persons employed by them, shall not be directly or indirectly concerned or interested in carrying on the business of trade or commerce, on their own or any other than the public account, or take or apply to his or their use any emolument or gain for negotiating any such business, during their appointment, agency, or employment, respectively, other than provided by this act, or excepting for and on account of the United States; and if any such persons shall offend against any of the prohibitions aforesaid, he shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, forfeit to the United States a sum not exceeding one thousand dollars, and shall be removed from such office, agency, or employment, and forever thereafter be incapable

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of holding any office under the United States: *Provided*, That if any person, other than a public prosecutor, shall give information of any such offence upon which a prosecution and conviction shall be had; one-half of the aforesaid penalty, when recovered, shall be for the use of the person giving such information: *And provided, also*, That if such misdemeanor be committed by the Superintendent of Indian trade, or by any agent or assistant agent, it shall be deemed a breach of the condition of his bond, and the penalty thereof may be recovered in any court having competent jurisdiction of the same.

SEC. 7. *And be it further enacted*, That the prices of goods supplied to, and to be paid for by, the Indians, shall be regulated in such manner, that the capital stock furnished by the United States shall not be diminished.

SEC. 8. *And be it further enacted*, That if any agent or agents, their clerks, or other person employed by them, shall purchase or receive from any Indian, in the way of trade or barter, any gun, or other article commonly used in hunting, any instrument of husbandry or cooking utensil, of the kind usually obtained by Indians in their intercourse with white people, or any article of clothing, excepting skins or furs, he or they shall, respectively, forfeit the sum of one hundred dollars for each offence, to be recovered by action of debt, in the name and to the use of the United States, in any court having jurisdiction in like cases: *Provided*, That no suit shall be commenced, except in the State or Territory within which the cause of action shall have arisen, or in which the defendant may reside; and it shall be the duty of the Superintendent of Indian trade, or of the Superintendents of Indian affairs, and their deputies, respectively, to whom information of every such offence shall be given, to collect the requisite evidence, if attainable, to prosecute the offender without delay.

SEC. 9. *And be it further enacted*, That the goods requisite for annuities to the Indian nations within the United States, and the Territories thereof, and for treaties with them, and for presents to be made them at the Seat of Government, or elsewhere, shall henceforward be purchased and transmitted to the proper posts and places, by the Superintendent of Indian trade, upon orders from the Department of War, and the accounts therefor shall be rendered to the War Department.

SEC. 10. *And be it further enacted*, That, during the continuance of this act, the annual sum of two thousand dollars for the payment of the salary of the Superintendent of Indian trade, and the annual sum of two thousand five hundred dollars for the payment of the clerks in his office, (including the sum of eight hundred dollars, allowed for an additional clerk by the act passed on the twenty-sixth day of February, one thousand eight hundred and ten,) are hereby appropriated, to be paid out of any money in the Treasury of the United States not otherwise appropriated.

SEC. 11. *And be it further enacted*, That, during the continuance of this act, the President of the United States be, and he is hereby, authorized to

draw annually from the Treasury of the United States a sum not exceeding fourteen thousand seven hundred and fifty dollars, to be applied under his direction to the payment of the agents, assistant agents, and clerks at the trading houses; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk one ration per day; which rations, or such payments as may be made in lieu thereof, by the order of the President, shall be charged to the trading fund; and the President shall cause an annual report to be made to Congress of how much of the sum so authorized has been drawn, and in what manner the same has been applied.

SEC. 12. *And be it further enacted*, That the sum of two hundred and sixty thousand dollars, appropriated by the tenth section of the act, entitled "An act for establishing trading houses with the Indian tribes," approved twenty-first April, one thousand eight hundred and four, and the sum of forty thousand dollars, appropriated by the act, entitled "An act supplemental to the act, entitled 'An act for establishing trading houses with the Indian tribes,'" approved third March, one thousand eight hundred and nine, shall be and remain a fund for the purpose of carrying on trade and intercourse with the Indian nations, in the manner provided by this act, exclusive of the salary of the Superintendent of Indian trade, and of the allowances to agents, assistant agents, and clerks.

SEC. 13. *And be it further enacted*, That it shall be the duty of said Superintendent of Indian trade, under the direction of the President of the United States, and upon such terms and conditions as he shall prescribe, to cause the furs and peltry, and other articles acquired in trade with the Indian nations, to be sold at public auction, in different parts of the United States, or otherwise disposed of, as may be deemed most advantageous to the United States.

SEC. 14. *And be it further enacted*, That if the President should deem it expedient to establish, under the authority of this act, trading houses, in addition to the number now in operation, for the purposes of carrying on a trade with the Indian tribes within the United States, or their Territories, the expenses for each trading house so established shall not exceed the following sums of money, in addition to the appropriations already made by this act, viz: For the principal agent, an annual sum, not exceeding one thousand dollars; for an assistant agent, if necessary, an annual sum not exceeding five hundred dollars; to be drawn by the President out of any moneys in the Treasury not otherwise appropriated.

SEC. 15. *And be it further enacted*, That, from and after the first day of April next, an act, entitled "An act for establishing trading houses with the Indian tribes," approved on the twenty-first of April, one thousand eight hundred and six, and an act, entitled "An act supplemental to the act, entitled 'An act for establishing trading houses with the Indian tribes,'" approved on the fourth day of March, one thousand eight hundred and nine, shall be, and the same are hereby, repealed:

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Provided, That nothing herein contained shall be construed to exonerate any person who shall not have performed the duty, or who shall have violated any of the prohibitions contained in the said acts, from suits or prosecutions, but as to all bonds, contracts, debts, demands, rights, penalties, punishments, which have been made, have arisen, or have incurred, or which shall be made, arise, or be incurred, previous to the first day of April next, the said acts shall have the same force and effect as though this act had not been passed: *Provided, likewise*, That the Superintendent of Indian trade, the agents, assistant agents, and other persons employed under the aforesaid acts, shall continue to hold their several offices, appointments, and trusts, until otherwise removed, anything herein contained that might be construed to the contrary notwithstanding; and also the bonds, which they or either of them have given, or may give, for the faithful execution of their several duties and offices, shall continue to have the same force and effect, to all intents and purposes, as though this act had not been passed.

SEC. 16. *And be it further enacted*, That this act shall be in force, from and after the first day of April next, for the term of three years, and from thence to the end of the session of Congress next thereafter, and no longer.

Approved, March 2, 1811.

An Act to establish the districts of Mumphreymagog, of Oswegatchie, and of the White Mountains.

Be it enacted, &c., That, from and after the first day of April next, all that part of the State of Vermont, lying east of Lake Mumphreymagog, and including, also, all such shores and waters of the said lake as lie within the said State, shall constitute a district, to be called the district of Mumphreymagog, of which Derby shall be the sole port of entry; and a collector for the said district shall be appointed to reside at the said port of entry.

SEC. 2. *And be it further enacted*, That, from and after the first day of April next, all the shores and waters of the river St. Lawrence, which lie in the State of New York, east of the western boundary of the county of St. Lawrence, and west of the western boundary of the collection district of Champlain, shall constitute a district to be called the district of Oswegatchie, of which Ogdenburg shall be the sole port of entry, and a collector for the said district shall be appointed to reside at Ogdenburg. And the President of the United States is authorized to establish another place in the said district to be a port of delivery only; and a surveyor shall be appointed to reside at such port of delivery.

SEC. 3. *And be it further enacted*, That all that part of the State of New Hampshire which lies adjacent to the northern boundary of the United States, and north of forty-four degrees thirty minutes north latitude, shall, from and after the first day of April next, constitute a district to be called the district of "White Mountains;" the President of the United States is authorized to

establish a place in the said district to be the port of entry; and a collector shall be appointed to reside at the said place.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to alter the place which had heretofore been designated to be the port of entry for the district of Vermont, and to establish another place to be such port of entry.

SEC. 5. *And be it further enacted*, That, from and after the first day of April next, the collectors of the district established by this act, and the collectors of the districts of Vermont, Champlain, and Sackett's Harbor, and Oswego, shall each receive, in addition to the fees and commissions allowed by law, an annual salary of five hundred dollars a year; and the annual salary heretofore allowed to the collectors of the three last mentioned districts shall, from and after the said first day of April, be discontinued; and the surveyor to be appointed for the district of Oswegatchie shall receive, in addition to the fees allowed by law, a salary of one hundred and fifty dollars a year.

Approved, March 2, 1811.

An Act, authorizing a loan of money, for a sum not exceeding five millions of dollars.

Be it enacted, &c., That the President of the United States be, and he is hereby, empowered to borrow, on the credit of the United States, a sum not exceeding five million of dollars, at a rate of interest, payable quarter-yearly, not exceeding six per centum per annum, and reimbursable at the pleasure of the United States, or at such periods as may be stipulated by contract, not exceeding six years from the first day of January next; to be applied, in addition to the moneys now in the Treasury, or which may be received therein from other sources during the present year, to defray any of the public expenses which are or may be authorized by law. The stock thereby created shall be transferable in the same manner as is provided by law for the transfer of the funded debt: *And it is further hereby declared*, That it shall be deemed a good execution of the said power to borrow, for the Secretary of the Treasury, with the approbation of the President of the United States, to cause to be constituted certificates of stock, signed by the Register of the Treasury, or by a commissioner of loans for the sum to be borrowed, or for any part thereof, bearing an interest of six per cent. per annum, transferable and reimbursable as aforesaid; and to cause the said certificates of stock to be sold at auction, after having given thirty days public notice of the time and place of such sale: *Provided*, That no such stock be sold under par.

SEC. 2. *And be it further enacted*, That so much of the funds constituting the annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt of the United States, as may be wanted for that purpose, is hereby pledged and appropriated for the payment of the interest, and for the reim-

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bursment of the principal of the stock, which may be created by virtue of this act. It shall accordingly be the duty of the Commissioners of the Sinking Fund to cause to be applied and paid out of the said fund yearly, and every year, such sum and sums as may be annually wanted to discharge the interest accruing on the said stock, and to reimburse the principal, as the same shall become due, and may be discharged in conformity with the terms of the loan; and they are further authorized to apply, from time to time, such sum or sums out of said fund, as they may think proper, towards redeeming by purchase, and at a price not above par, the principal of the said stock, or any part thereof. And the faith of the United States is hereby pledged to establish sufficient revenues for making up any deficiency that may hereafter take place in the funds hereby appropriated for paying the said interest and principal sums, or any of them, in manner aforesaid.

Approved, March 2, 1811.

An Act to annex a part of the State of New Jersey to the collection district of New York; to remove the office of Collector of Niagara to Lewistown; to make Cape St. Vincent, in the district of Sackett's Harbor, a port of delivery; and out of the districts of Miami and Mississippi to make two new districts, to be called the districts of Sandusky and Teche; and for other purposes.

Be it enacted, &c., That all that part of the State of New Jersey, which lies north and east of Elizabethtown and Staten Island, be, and the same is hereby, annexed to the district of New York; that an assistant collector, to be appointed and commissioned by the President of the United States, shall reside at the town of Jersey, who shall have power to enter and clear vessels in like manner as the collector of New York is authorized by law to do; but such assistant collector shall nevertheless act in conformity to such instructions and regulations as he shall from time to time receive from the collector of New York; and that the said assistant collector shall receive for his annual salary one thousand dollars, in full for all services to be by him performed, and in lieu of commissions and fees.

Sec. 2. *And be it further enacted,* That all that part of the Miama district, lying east of the western cape of Sandusky bay, shall be a district, to be called the district of Sandusky; and the President is hereby authorized to designate such place, in the district of Sandusky, as he shall judge expedient, to be the port of entry of the said district; and a collector for the said district shall be appointed, to reside at the port of entry.

Sec. 3. *And be it further enacted,* That Cape Vincent, in the district of Sackett's Harbor, shall, from and after the thirty-first day of May next, be a port of delivery only; and a surveyor shall be appointed, to reside at the said port.

Sec. 4. *And be it further enacted,* That the collector's office shall, after the thirty-first day of May next, be removed from Fort Niagara to Lewistown, which last mentioned place shall in

future be the residence of the collector; and also, that the office of the collector of the customs, for the district of Buffalo creek, shall be kept at such place or places in the town of Buffalo, as the President of the United States shall designate.

Sec. 5. *And be it further enacted,* That ships or vessels, arriving from and after the first day of May next from the Cape of Good Hope, or from any place beyond the same, shall be admitted to make entry at Plymouth and Nantucket, ports of entry in the State of Massachusetts.

Sec. 6. *And be it further enacted,* That, from and after the first day of May next, Bangor, in the district of Penobscot, in the State of Massachusetts, be, and the same is hereby made, a port of delivery, to be annexed to the district of Penobscot; and that a surveyor be appointed, to reside at the said port of delivery.

Sec. 7. *And be it further enacted,* That all that part of the collection district of Mississippi which includes the waters of the river Teche, and all the shores, bays, and rivers, west of the Atchafalaya, be, and the same is hereby established as a new district, to be called the district of Teche; that Nova Iberia be the port of entry for the same; and that a collector be appointed, to reside at the port of entry.

Sec. 8. *And be it further enacted,* That a surveyor be appointed to reside at or near the mouth of the Rappahannock river, at such place as the President of the United States shall designate.

Sec. 9. *And be it further enacted,* That the several collectors and surveyors who may be appointed by virtue of this act, and whose salaries are not fixed by a preceding section, shall, in addition to the fees and commissions authorized by law, receive respectively the same annual salary which, by law, is allowed to the collectors and surveyors of the districts bordering on Lake Erie.

Approved, March 2, 1811.

An Act to extend the time for completing the Third Census, or enumeration of the inhabitants of the United States.

Be it enacted, &c., That the assistants in the several States and Territories for which returns have not been completed, have until the first Monday of June next, to make their returns to the marshals and secretaries; and that the marshals and secretaries have until the first Monday of July next, to make and file their returns in the office of the Secretary of State, any law to the contrary notwithstanding.

Approved, March 2, 1811.

An Act declaring the consent of Congress to an act of the State of Georgia, passed the twelfth of December, one thousand eight hundred and four, "establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's."

Be it enacted, &c., That the consent of Congress be and hereby is granted and declared to the operation of an act of the Legislature of Georgia,

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passed the twelfth of December, one thousand eight hundred and four, establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's.

SEC. 2. *And be it further enacted*, That this act shall be in force for one year, and no longer.

Approved, March 2, 1811.

An Act to erect a light-house on Boon island in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina, and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, and to complete the beacons and buoys at the entrance of Beverly harbor, in the State of Massachusetts.

Be it enacted, &c., That the Secretary of the Treasury be and he is hereby authorized, on being satisfied that Boon island, in the district of Maine, in the State of Massachusetts, is a fit and eligible site, for a light-house, and that one ought to be erected thereon, to cause a light-house to be built on the said island: *Provided*, That the Legislature of Massachusetts shall vest the property of the said island in the United States, and cede the jurisdiction of the same.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be and he is hereby directed to cause buoys to be placed at or near the main bar, and New Inlet bar off Cape Fear; and also to cause to be erected a beacon on a point of land near New Inlet, in the State of North Carolina.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be and he is hereby directed to cause such buoys as he shall deem necessary, to be placed at the entrance of the harbor of Edgartown, in the State of Massachusetts.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause to be erected a column of stone, as a beacon, on Cape Elizabeth, in the State of Massachusetts, of such form and dimensions as he shall deem necessary.

SEC. 5. *And be it further enacted*, That the following sums of money be and the same are hereby appropriated for the purposes herein mentioned, to wit: For the erection of a light-house on Boon island, three thousand dollars; for placing buoys on the places mentioned off Cape Fear river, two thousand dollars; for placing buoys at the entrance of the harbor of Edgartown, two thousand dollars; for erecting a beacon, one thousand eight hundred dollars; and for erecting a column on Cape Elizabeth, one thousand eight hundred dollars; and for completing the beacons and buoys ordered to be placed near the entrance of Beverly harbor, in the State of Massachusetts, the further sum of three hundred and fifty dollars.

Approved, March 2, 1811.

An Act to extend the right of suffrage in the Indiana Territory, and for other purposes.

Be it enacted, &c., That each and every free white male person, who shall have attained the

age of twenty-one years, and who shall have paid a county or Territorial tax, and who shall have resided one year in said Territory, previous to any general election, and be at the time of any such election a resident of said Territory, shall be entitled to vote for members of the Legislative Council and House of Representatives of the Territorial Legislature, and for a Delegate to the Congress of the United States for said Territory.

SEC. 2. *And be it further enacted*, That the citizens of the Indiana Territory, entitled to vote for Representatives to the General Assembly thereof, may, on the third Monday of April next, and on the third Monday of April biennially thereafter, (unless the General Assembly of said Territory shall appoint a different day,) elect one Delegate for said Territory to the Congress of the United States, who shall possess the same powers heretofore granted by law to the same.

SEC. 3. *And be it further enacted*, That each and every sheriff that now is or hereafter may be appointed in said Territory, who shall either neglect or refuse to perform the duties required by an act, entitled "An act extending the right of suffrage in the Indiana Territory, and for other purposes," passed in February, one thousand eight hundred and nine, shall be liable to a penalty of one thousand dollars, recoverable by action of debt, in any court of record within the said Territory, one-half for the use of the informer, and the other for the use of the Territory.

SEC. 4. *And be it further enacted*, That any person holding, or who may hereafter hold, any office of profit from the Governor of the Indiana Territory, (justices of the peace and militia officers excepted,) shall be ineligible to, and disqualified to act as a member of the Legislative Council or House of Representatives for said Territory.

SEC. 5. *And be it further enacted*, That each and every sheriff, in each and every county, that now is or hereafter may be established in said Territory, shall cause to be held the election prescribed by this act, according to the time and manner prescribed by the laws of said Territory and this act, under the penalty of one thousand dollars, to be recovered in the manner and for the use pointed out by the third section of this act.

Approved, March 3, 1811.

An Act making appropriations for carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded at Fort Clarke, on the tenth day of November, one thousand eight hundred and eight, and for other purposes.

Be it enacted, &c., That, for the purpose of carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded and signed at Fort Clarke, on the Missouri, on the tenth day of November, one thousand eight hundred and eight, the sum of five thousand dollars be and the same is hereby appropriated; and the further annual sum of one thousand dollars to the Great Osage nation, and

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of five hundred dollars to the Little Osage nation, to be paid annually to the said nations; which annuities shall be permanent.

SEC. 2. *And be it further enacted*, That the sum of six hundred and eighty dollars be, and the same is hereby appropriated, for paying John Eugene Leitzendorfer, the sum allowed him by the act passed on the thirteenth day of February, one thousand eight hundred and eleven.

SEC. 3. *And be it further enacted*, That the several sums appropriated by this act, shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, March 3, 1811.

An Act to increase the salaries of the Judges of the Circuit Court for the District of Columbia.

Be it enacted, &c., That, in addition to the compensation heretofore allowed by law to the Judges of the Circuit Court for the District of Columbia, the sum of two hundred dollars per annum be paid to the Chief Justice of the said Court, and the sum of four hundred dollars per annum be paid to each of the Assistant Judges, payable quarter yearly; the first quarterly payment to be made on the first day of April next.

Approved, March 3, 1811.

An Act concerning Invalid Pensioners.

Be it enacted, &c., That the Secretary of War be, and he is hereby directed to place the following named persons, whose names have been transmitted to Congress, pursuant to the act of the tenth of April, eighteen hundred and six, on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times hereinafter mentioned, that is to say:

James Trowbridge, at the rate of three dollars and thirty-three cents per month, to commence on the fifth day of February, one thousand eight hundred and ten.

Samuel Mears, junior, at the rate of two dollars and fifty cents per month, to commence on the tenth day of December, one thousand eight hundred and ten.

Ebenezer Brown, at the rate of five dollars per month, to commence on the third day of January, one thousand eight hundred and eleven.

Elisha Capron, at the rate of two dollars and fifty cents per month, to commence on the first day of January, one thousand eight hundred and ten.

William Woodruff, at the rate of five dollars per month, to commence on the twenty-fourth day of October, one thousand eight hundred and ten.

Levi Tuttle, at the rate of one dollar and twenty-five cents per month, to commence on the seventh day of January, one thousand eight hundred and eleven.

Nathaniel Austin, at the rate of three dollars and seventy-five cents per month, to commence on the tenth day of April, one thousand eight hundred and ten.

Isaac Vincent, at the rate of five dollars per

month, to commence on the twenty-second day of March, one thousand eight hundred and ten.

John Griggs, at the rate of two dollars and fifty cents per month, to commence on the seventh day of April, one thousand eight hundred and ten.

Patrick Hart, at the rate of three dollars per month, to commence on the thirtieth day of August, one thousand eight hundred and ten.

William Burke, at the rate of two dollars and fifty cents per month, to commence on the tenth day of October, one thousand eight hundred and eight.

John Long, at the rate of two dollars and fifty cents per month, to commence on the seventeenth day of April, one thousand eight hundred and ten.

Vincent Tapp, at the rate of two dollars and fifty cents per month, to commence on the sixth day of December, one thousand eight hundred and ten.

James Batson, at the rate of three dollars per month, to commence on the thirteenth day of February, one thousand eight hundred and eleven.

John Brown, at the rate of two dollars and fifty cents per month, to commence on the first day of December, one thousand eight hundred and ten.

James Campin, at the rate of thirteen dollars thirty-three and one third cents per month, to commence on the twenty-fifth day of March, one thousand eight hundred and nine.

Samuel Wells, at the rate of three dollars and seventy-five cents per month to commence on the twenty-second day of July, one thousand eight hundred and seven.

Daniel McElduff, at the rate of thirteen dollars and thirty-three cents per month, to commence on the twenty-first day of July, one thousand eight hundred and eleven.

Edward Miller, at the rate of five dollars per month, to commence on the third day of May, one thousand eight hundred and nine.

Daniel Fielding, at the rate of three dollars and thirty-three cents per month, to commence on the nineteenth of September, one thousand eight hundred and nine.

SEC. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein respectively annexed to their names; the said increase to commence at the times hereinafter mentioned, that is to say:

John Lincoln, three dollars per month, to commence on the fifteenth day of June, one thousand eight hundred and ten.

Dan Culver, five dollars per month, to commence on the tenth day of June, one thousand eight hundred and ten.

Joseph Whittemore, ten dollars per month, to commence on the twelfth day of May one thousand eight hundred and nine.

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Peter Hemmenway, five dollars per month, to commence on the eighth day of March, one thousand eight hundred and ten.

Benjamin Mastic, five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Elisha Rice, five dollars per month, to commence on the thirty-first day of March, one thousand eight hundred and ten.

William Bailey, two dollars and fifty cents per month, to commence on the third day of July, one thousand eight hundred and ten.

Jared Knapp, five dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and ten.

Solomon Reynolds, five dollars per month, to commence on the sixteenth day of January, one thousand eight hundred and eleven.

Samuel Loomis, three dollars and seventy-five cents per month, to commence on the seventh day of February, one thousand eight hundred and eleven.

Eleazer Hudson, three dollars and seventy-five cents per month, to commence on the fifteenth day of February, one thousand eight hundred and eleven.

Job Bartram, fifteen dollars per month, to commence on the twenty-fifth day of October, one thousand eight hundred and nine.

George Shell, five dollars per month, to commence on the nineteenth day of December, one thousand eight hundred and ten.

Isaac Richards, two dollars and fifty cents per month, to commence on the fourteenth day of March, one thousand eight hundred and ten.

James Patton, thirteen dollars and thirty-three cents per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Robert Coddington, five dollars per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Isaac Cotheall, five dollars per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Seybert Odam, five dollars per month, to commence on the twenty-seventh day of October, one thousand eight hundred and ten.

SEC. 3. *And be it further enacted*, That John Calhoun be placed on the said pension list, at the rate of fifteen dollars per month, to commence on the sixth day of February, one thousand eight hundred and ten; and that Benjamin Blackburn be placed on the pension list, at the rate of five dollars per month, from the first day of April, one thousand eight hundred and ten.

SEC. 4. *And be it further enacted*, That there be paid, out of any moneys in the Treasury not otherwise appropriated, to Abram Gamble, of the State of Maryland, who was placed on the pension list from the eighteenth day of January, one thousand eight hundred and nine, the sum of fifty-three dollars and seventy-five cents, for arrears of pension from the twenty-fifth day of January, one thousand eight hundred and eight, when he first completed his testimony under an irregular commission, to the said eighteenth day of February,

one thousand eight hundred and nine, being ten months and twenty-three days.

Approved, March 3, 1811.

An Act making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States.

Be it enacted, &c., That for the purpose of completing the fortifications commenced for the security of the ports, towns, and harbors of the United States, and the Territories thereof, there be, and hereby is appropriated the sum of one hundred and thirty-one thousand and forty-six dollars and thirty cents, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1811.

An Act for allowing a reasonable compensation to the persons who have taken an account of the several manufacturing establishments and manufactures within the United States.

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is authorized, to allow such reasonable compensation as he shall deem adequate, for the services of each of those persons who took, under his direction, in pursuance of an act, entitled "An act further to alter and amend 'An act providing for the third census or enumeration of the inhabitants of the United States,'" an account of the several manufacturing establishments and manufactures within their several districts: *Provided however*, That nothing herein contained shall authorize the Secretary of the Treasury to expend, out of the fund already appropriated for taking the enumeration of the inhabitants of the United States, a sum exceeding thirty thousand dollars.

Approved, March 3, 1811.

An Act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio.

Be it enacted, &c., That in addition to the unexpended balance of the sum heretofore appropriated for laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, the sum of fifty thousand dollars be, and the same is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the direction of the President of the United States, in making said road between Cumberland, in the State of Maryland, and Brownsville, in the State of Pennsylvania, commencing at Cumberland; which sum of fifty thousand dollars shall be replaced out of the fund reserved for laying out and making roads to the State of Ohio, by virtue of the seventh section of an act passed on the thirtieth day of April, one thousand eight hundred and two, entitled "An act to enable the people of the eastern division of the Territory Northwest of the river Ohio, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes."

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Sec. 2. *And be it further enacted*, That the President of the United States be, and he is hereby authorized and empowered to permit such deviations from the courses run and established by the commissioners under the authority of "An act to regulate the laying out and making a road from Cumberland in the State of Maryland, to the State of Ohio," as in his opinion shall be deemed expedient: *Provided*, That no deviation shall be made from the principal points established on said road between Cumberland and Brownsville. Approved, March 3, 1811.

An Act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana, and to repeal the act passed for the same purpose, and approved February sixteenth, one thousand eight hundred and eleven.

Be it enacted, &c., That the following allowances and compensations shall be made to the several officers appointed for the purpose of ascertaining the rights of persons claiming lands in the Territories of Orleans and Louisiana; which allowances and compensations shall be in full for all their services, including those rendered since their salaries respectively ceased; that is to say: To each of the commissioners, and to each of the clerks of the boards, fifty cents for each claim, duly filed according to law, which remained undecided on the first day of July, one thousand eight hundred and nine, and on which a decision has been made subsequent to that day; or shall hereafter be made, whether such decision be in favor of, or against the claim: which allowance of fifty cents shall be paid at the Treasury of the United States, from time to time, and on receipt of the transcripts of the decisions and of the reports of claims not finally confirmed, as the same may be transmitted by the boards respectively, to the Secretary of the Treasury, according to law. To each of the said commissioners and clerks a further allowance of five hundred dollars, to be paid after the completion of the business of each of the boards, respectively, to the officers then in office. And to each of the translators, at the rate of six hundred dollars a year, and not to exceed in the whole for each the term of eighteen months: *Provided always*, That the abovementioned allowance of fifty cents for each claim decided upon, shall not be made to any of the commissioners who may be absent at the time of such decisions; the attendance of each to be certified by the clerk, or by a majority of the board: *And provided also*, That no allowance shall be made to any agent heretofore employed by the Secretary of the Treasury for any period of time, subsequent to the time when such agent ceased to act, or when the board ceased to receive evidence.

SEC. 2. *And be it further enacted*, That the two principal deputy surveyors of the Territory of Orleans shall, and they are hereby authorized, in surveying and dividing such of the public lands in the said Territory, which are or may be authorized to be surveyed and divided, as are adjacent to any river, lake, creek, bayou, or water

course, to vary the mode heretofore prescribed by law, so far as relates to the contents of the tracts, and to the angles and boundary lines, and to lay out the same into tracts, as far as practicable, of fifty-eight poles in front and four hundred and sixty-five poles in depth, of such shape, and bounded by such lines as the nature of the country will render practicable, and most convenient: *Provided however*, That such deviations from the ordinary mode of surveying shall be made with the approbation of, and in conformity with the general instructions which may be given to that effect, by the surveyor of the public lands south of the State of Tennessee.

SEC. 3. *And be it further enacted*, That, for the disposal of the lands of the United States lying in the eastern land district of the Territory of Orleans, a land office shall be established at New Orleans; and that for the disposal of the lands of the United States lying south of Red river, in the western land district of the Territory of Orleans, a land office shall be established at Opelousas; and that for the disposal of the lands of the United States lying north of Red river, in the western land district of the Territory of Orleans, a land office shall be established, which shall be kept at such place as the President of the United States may direct. The register of the western land district of the Territory of Orleans shall act as register of the land office of Opelousas, and as one of the commissioners for ascertaining the rights of persons claiming lands in any part of the said western land district. And for the land office north of the Red river, a register, and for each of the said three offices a receiver of public moneys shall be appointed, who shall give security in the same manner, in the same sums, and whose compensations, emoluments, duties, and authority, shall in every respect be the same, in relation to the lands which shall be disposed of at their offices, as are or may be provided by law, in relation to the registers and receivers of public moneys in the several offices established for the disposal of the lands of the United States in the Territory of Mississippi.

SEC. 4. *And be it further enacted*, That the powers vested in the President of the United States by the eleventh section of the act, entitled "An act supplementary to an act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the District of Louisiana,'" passed on the twenty-first day of April, one thousand eight hundred and six, in relation to the public lands, lying in the western district of the Territory of Orleans, and all the other provisions made by the same section, for the sale of said lands, and for obtaining patents for the same, shall be, and the same are hereby, in every respect, extended to the public lands lying in the eastern district of the Territory of Orleans.

SEC. 5. *And be it further enacted*, That every person who, either by virtue of a French or Spanish grant recognised by the laws of the United States, or under a claim confirmed by the commissioners appointed for the purpose of ascertain-

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ing the rights of persons claiming lands in the Territory of Orleans, owns a tract of land bordering on any river, creek, bayou, or water course, in the said Territory, and not exceeding in depth forty arpens, French measure, shall be entitled to a preference in becoming the purchaser of any vacant tract of land adjacent to, and back of his own tract, not exceeding forty arpens, French measure, in depth, nor in quantity of land that which is contained in his own tract, at the same price, and on the same terms and conditions, as are, or may be, provided by law for the other public lands in the said Territory. And the principal deputy surveyor of each district respectively shall be and he is hereby authorized, under the superintendence of the surveyor of the public lands south of the State of Tennessee, to cause to be surveyed the tracts claimed by virtue of this section; and in all cases where by reason of bends in the river, lake, creek, bayou, or water course, bordering on the tract, and of adjacent claims of a similar nature, each claimant cannot obtain a tract equal in quantity to the adjacent tract already owned by him, to divide the vacant land applicable to that object between the several claimants, in such manner as to him may appear most equitable: *Provided however*, That the right of pre-emption granted by this section shall not extend so far in depth, as to include lands fit for cultivation, bordering on another river, creek, bayou, or water course. And every person entitled to the benefit of this section shall, within three years after the date of this act, deliver to the register of the proper land office, a notice in writing, stating the situation and extent of the tract of land he wishes to purchase, and shall also make the payment and payments for the same, at the time and times, which are, or may be, prescribed by law for the disposal of the other public lands in the said Territory; the time of his delivering the notice aforesaid being considered as the date of the purchase. And if any such person shall fail to deliver such notice within the said period of three years, or to make such payment or payments at the time abovementioned, his right of pre-emption shall cease and become void; and the land may thereafter be purchased by any other person in the same manner, and on the same terms, as are or may be provided by law for the sale of other public lands in the said Territory.

SEC. 6. *And be it further enacted*, That the land offices established by virtue of the third section of this act, shall be opened on the first day of January, one thousand eight hundred and twelve, for the sale of all the public lands, with the exception of section number sixteen, of the salt springs, and land contiguous thereto, and of the tracts reserved for the support of seminaries of learning as hereinafter provided, which shall have been previously surveyed, and the surveys thereof returned according to law to the registers of the land offices respectively; and on the first day of February, one thousand eight hundred and twelve, for the sale of such of the public lands, which from the nature of the country cannot be surveyed in the ordinary way, and are embraced

by the provisions of the second section of this act, as shall have, at least six weeks previous to the said first day of February, one thousand eight hundred and twelve, been advertised for sale by the surveyor of the public lands south of the State of Tennessee, with the approbation of the President of the United States. The public sales for the land sub-divided into quarter sections in the ordinary way, shall be held for one calendar month, under the superintendence of the register and receiver of each land office respectively, and of either the surveyor of public lands south of Tennessee, or of his principal deputy surveyor in the district, who shall each receive six dollars for each day's attendance on the same; and no tract of land shall be sold at said public sales for a less price than that which is or may be prescribed by law, for the sale of public lands in the Mississippi Territory. And from and after the first day of February, one thousand eight hundred and twelve, any tract which has been thus offered for sale at public sale, and remains unsold, as well as any tract of land embraced by the provisions of the second section of this act, the sale of which is authorized by this section, may be disposed of at private sale by the register of the land office, for the same price which is or may be prescribed by law, for the sale of public lands in the Mississippi Territory. All the lands sold by virtue of this section, shall in every other respect be sold on the same terms of payment, and conditions, in the same manner, and under the same regulations as are, or may be, prescribed by law for the sale of public lands in the Mississippi Territory: *Provided, however*, That in case of an application being made at the same time, for the purchase at private sale of the same tract of land by two or more persons, one of whom did actually inhabit and cultivate such tract of land at the time of passing this act, and still continues to inhabit and cultivate the same at the time of such application, the preference shall be given to the person thus inhabiting and cultivating such tract of land: *And provided also*, That till after the final decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been in due time, and according to law, presented to the register of the land office, and filed in his office, for the purpose of being investigated by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans; or which shall have been located by or for Major-General Lafayette, according to law.

SEC. 7. *And be it further enacted*, That in addition to the township already reserved for that purpose by law in the western district of the Territory of Orleans, and which shall be located south of Red river, another entire township shall be located by the Secretary of the Treasury north of Red river, for the use of a seminary of learning, and also an entire township in the Territory of Louisiana, for the support of a seminary of learning within the said Territory.

SEC. 8. *And be it further enacted*, That the Surveyor General shall cause such of the public

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lands in the Territory of Louisiana, as the President of the United States shall direct, to be surveyed and divided in the same manner and under the same regulations and limitation as to expenses, as is provided by law in relation to the lands of the United States northwest of the river Ohio and above the mouth of Kentucky river.

SEC. 9. *And be it further enacted,* That, for the disposal of the lands of the United States lying in the Territory of Louisiana, a land office shall be established, which shall be kept at such place as the President of the United States may direct; and a register and receiver of public moneys shall be appointed for said office, who shall give security in the same manner, in the same sums, and whose compensations, emoluments, duties and authority, shall in every respect be the same, in relation to the lands which shall be disposed of at their office, as are or may be provided for by law in relation to the register and receiver of public moneys in the several offices established for the disposal of the lands of the United States northwest of the river Ohio, and above the mouth of Kentucky river.

SEC. 10. *And be it further enacted,* That the President of the United States be and he is hereby authorized, whenever he shall think proper, to direct so much of the public lands lying in the Territory of Louisiana, as shall have been surveyed in conformity with the eighth section of this act, to be offered for sale. All such lands shall, with the exception of the section "number sixteen," which shall be reserved in each township for the support of schools within the same, with the exception also of a tract reserved for the support of a seminary of learning, as provided for by the seventh section of this act, and with the exception also of the salt springs and lead mines, and land contiguous thereto, which, by the direction of the President of the United States, may be reserved for the future disposal of the said States, shall be offered for sale to the highest bidder, under the direction of the register of the land office and the receiver of public moneys and of the principal deputy surveyor, and on such day or days as shall, by public proclamation of the President of the United States, be designated for that purpose. The sale shall remain open for three weeks, and no longer. The lands shall be sold for a price not less than that which has been or may be fixed by law for the public lands northwest of the river Ohio, and above the mouth of Kentucky river. And shall in every other respect be sold in tracts of the same size, on the same

terms and conditions, as have been or may be by law provided for the lands sold in the State of Ohio. The superintendents of the said public sales shall each receive six dollars for each day's attendance on the said sales. All the lands which have been thus offered for sale, at public sale, remaining unsold at the closing of the public sales, may be disposed of at private sale by the register of the land office, for the same price which is or may be prescribed by law for the sale of public lands in the State of Ohio: *Provided, however,* That, till after the decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been in due time and according to law presented to the recorder of land titles in the district of Louisiana and filed in his office, for the purpose of being investigated by the Commissioners appointed for ascertaining the rights of persons claiming lands in the Territory of Louisiana. And patents shall be obtained for all lands sold in the Territory of Louisiana, in the same manner and on the same terms as is or may be provided by law for land sold in the State of Ohio.

SEC. 11. *And be it further enacted,* That the claim of the corporation of the city of New Orleans, to the common adjacent thereto, and within six hundred yards from the fortifications of the same, as confirmed by the act, entitled "An act respecting claims to lands in the Territories of Orleans and Louisiana," shall be deemed valid, although the relinquishment of the said corporation to any claim beyond the said distance of six hundred yards was not made till after the expiration of the period of six months prescribed by the act last mentioned.

SEC. 12. *And be it further enacted,* That all the navigable rivers and waters in the Territories of Orleans and Louisiana shall be and forever remain public highways.

SEC. 13. *And be it further enacted,* That a sum not exceeding forty thousand dollars be, and the same is hereby appropriated, for the purpose of carrying this act into effect, which sum shall be paid out of unappropriated moneys in the Treasury.

SEC. 14. *And be it further enacted,* That the act entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana," approved February the sixteenth, eighteen hundred and eleven, be, and the same is hereby, repealed.

Approved March 3, 1811.